

Session laws

South Dakota

Smith Dakota Collection



THE LAWS
PASSED AT THE
Eighteenth Session
OF THE
Legislature
OF THE
STATE OF SOUTH DAKOTA

Begun and held at Pierre, the Capital of said State, on Tuesday,
the Second day of January, 1923, and concluded on
March 2, 1923.

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AUTHENTICATION

STATE OF SOUTH DAKOTA, }
Department of State. } ss.

I, C. E. Coyne, Secretary of State of the State of South Dakota, do hereby certify that the laws contained in this volume are true and correct copies of the original enrolled Bills and Joint Resolutions passed by the Legislature of this State at the Eighteenth Session thereof, begun and held at Pierre, the Capital of said State, on Tuesday, the second day of January, 1923, and concluded on March 2d, 1923, as approved by the Governor, or which became a law by virtue of the limitation of Section 9, Article 4, of the Constitution of this State, and now on file in this office.

In Witness Whereof, I have hereunto set my hand and affixed the great seal of the State of South Dakota, at Pierre, this 14th day of March, A. D. 1923.

(SEAL)

C. E. COYNE,
Secretary of State.

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	<u>SOLDIERS' HOME:</u>
269.....	<u>S. B. No. 213, Relating to Salaries.</u>
270.....	<u>H. B. No. 21, Relating to Qualifications for Admission.</u>
	<u>SOLDIERS AND SAILORS:</u>
271.....	<u>H. B. No. 281, Relating to Memorial Fund.</u>
272.....	<u>S. B. No. 94, Relating to Expenses of Burial.</u>
	<u>SOUTH DAKOTA LAND SETTLEMENT ACT:</u>
273.....	<u>S. B. No. 277, Amending Land Settlement Act.</u>
	<u>STATE ATHLETIC COMMISSION:</u>
274.....	<u>S. B. No. 144, Regulating Boxing, Sparring and Wrestling Matches.</u>
	<u>STATE BOARD OF AGRICULTURE:</u>
275.....	<u>S. B. No. 5, Relating to State Fair.</u>
	<u>STATE BOARD OF CHARITIES AND CORRECTIONS:</u>
276.....	<u>S. B. No. 195, Relating to Powers of the Board.</u>
277.....	<u>S. B. No. 288, Relating to the Powers of the Board.</u>
	<u>STATE BOARD OF FINANCE:</u>
278.....	<u>H. B. No. 181, Relating to State Board of Finance.</u>
	<u>STATE BOARD OF HEALTH:</u>
279.....	<u>H. B. No. 106, Accepting Sheppard-Towner Maternity and Infancy Act.</u>
	<u>STATE BONDS:</u>
280.....	<u>H. B. No. 334, Relating to State Bonds and Sinking Funds.</u>
	<u>STATE FUNDS:</u>
281.....	<u>H. B. No. 198, Relating to Depositories of State Funds.</u>
282.....	<u>S. B. No. 335, Relating to Depositories of State Funds.</u>
283.....	<u>S. B. No. 171, Transfer, Public Printing Fund.</u>

<u>Chapter No.</u>	<u>STATE HIGHWAY COMMISSION:</u>
284.....	<u>H. B. No. 226, Relating to Highways.</u>
285.....	<u>S. B. No. 318, Relating to Maintenance of Highways and Bridges.</u>
286.....	<u>S. B. 143, Relating to Right-of-Way for Highways.</u>
	<u>STATE LIVESTOCK SANITARY BOARD:</u>
287.....	<u>H. B. No. 168, Relating to Eradicating Contagious Diseases in Live Stock by Counties, Cities and Towns.</u>
288.....	<u>H. B. No. 113, Relating to Veterinaries.</u>
	<u>STATE OFFICERS:</u>
289.....	<u>H. B. No. 332, Providing a Fixed Expense Allowance to Certain State Officers.</u>
	<u>STATE SCHOOL FOR THE BLIND.</u>
290.....	<u>H. B. No. 43, Relating to Admission of Pupils.</u>
	<u>STATE SANITARIUM:</u>
291.....	<u>S. B. No. 214, Relating to State Sanitarium.</u>
	<u>STATE TRAINING SCHOOL:</u>
292.....	<u>S. B. No. 203, Investigation and Transfer of Feeble Minded.</u>
	<u>TOWNSHIPS:</u>
293.....	<u>S. B. No. 187, Relating to Resurvey for Taxation.</u>
	<u>UNIFORM FLAG LAW:</u>
294.....	<u>H. B. No. 210, Relating to Uniform Flag Law.</u>
	<u>UNIFORM ILLEGITIMACY ACT:</u>
295.....	<u>H. B. 208, Relating to Children Born Out of Wedlock.</u>
	<u>UNIFORM PARTNERSHIP ACT:</u>
296.....	<u>S. B. No. 328, Relating to Partnerships.</u>
	<u>UNORGANIZED COUNTIES:</u>
297.....	<u>S. B. No. 105, Depositaries of Funds.</u>
298.....	<u>H. B. No. 317, Relating to Highway Board.</u>
299.....	<u>H. B. No. 315, Relating to Highway Board Contracts.</u>
300.....	<u>H. B. No. 318, Relating to Highway Board and School Board.</u>
301.....	<u>H. B. No. 314, Publication of Legal Notices.</u>
302.....	<u>H. B. No. 55, Relating to Organization of Counties.</u>
303.....	<u>H. B. No. 69, Relating to Terms of Court in Unorganized Counties.</u>
304.....	<u>H. B. No. 74, Attaching Todd County to Tripp County.</u>
305.....	<u>H. B. No. 280, Relating to Tax Levy.</u>
	<u>WAREHOUSES:</u>
306.....	<u>S. B. No. 137, Relating to Farm Storage Warehouses.</u>
307.....	<u>S. B. No. 110, Relating to Public Warehouses.</u>
	<u>WOMEN:</u>
308.....	<u>H. B. No. 195, Relating to Labor of Women and Children.</u>
309.....	<u>H. B. No. 203, Relating to Minimum Wages for Girls and Women.</u>
	<u>WORKMEN'S COMPENSATION LAW:</u>
310.....	<u>H. B. No. 23, Relating to Compensation Schedule.</u>
311.....	<u>H. B. No. 205, Relating to Insurance by Employer.</u>
312.....	<u>H. B. No. 24, Law not Applicable to Certain Employees.</u>
313.....	<u>H. B. No. 109, Relating to the Operation of Threshing Machines.</u>

Acts Legalized

CHAPTER 1.

(H. B. 222.)

LEGALIZING BRYANT SEWER BONDS, ETC.

AN ACT Entitled, An Act Legalizing, Validating and Ratifying Certain Proceedings of the City Council of the City of Bryant, in Hamlin County, South Dakota, In Connection with the Establishing of Sewer Districts, Adopting Resolution to Construct Sewers, Apportioning Assessments, Adopting Assessment Roll, Issuing Sewer Bonds, Issuing Special Assessment Certificates, and All Other Acts and Proceedings of Said City Council and Other Officers in Connection Therewith.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That all acts and proceedings of the City Council of the City of Bryant, in the County of Hamlin, South Dakota, and of other officers of said City, in connection with the establishing of sewer districts, adopting resolution to construct sewers, Apportioning Assessments, Adopting Assessment Roll, Issuing Sewer Bonds, Issuing Special Assessment Certificates, and all other acts and proceedings of said City Council and other City Officers in connection therewith, including the issue and sale of sewer bonds in the sum of \$21,000.00, and the levying of taxes for the payment thereof with interest be, and the same hereby are, declared to be legal and valid, and are hereby ratified.

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 2.

(S. B. 65)

LEGALIZING ACTS OF CITY OF COLMAN.

AN ACT Entitled, An Act Legalizing the Proceedings of the Town of Colman and Its Officers in Changing from a Town to a City of the Second Class, and Legalizing All Acts and Proceedings of Said City of Colman and the Officers Thereof.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That the proceedings had and taken by the Town of Colman and the officers thereof in changing from an incorporated Town to a City of the second class, be, and the same are, hereby legalized and all proceedings taken and had by the City of Colman as a City of the second class and the officers thereof, particularly all ordinances enacted by said City, be, and the same are, hereby legalized and declared valid and effective.

Section 2. Whereas, this Act is necessary for the support of State Government and its existing institutions, an emergency is hereby declared to exist and this Act shall take effect and be in full force from and after its passage and approval.

Approved February 17, 1923.

CHAPTER 3.

(H. B. 8)

LEGALIZING DALLAS AUDITORIUM BOND ISSUE.

AN ACT Entitled, An Act Legalizing the \$15,000.00 Bond Issue of the City of Dallas for the Purpose of Erecting and Equipping an Auditorium for the Use of Said City, Voted for at an Election held July 24th, 1922. Under a Resolution Thereofore Adopted.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That the election held in the City of Dallas, Gregory County, South Dakota, on the 24th day of July, 1922, for the purpose of voting on the question of issuing bonds of said city in the amount of Fifteen Thousand Dollars (\$15,000.00) for the purpose of constructing, owning, equipping, operating and maintaining an Auditorium in said City of Dallas, and all bonds issued pursuant thereto, are hereby legalized and declared valid, together with all acts and proceedings of the City Council of said city, or any other officers pertaining to the calling, giving notice of and holding or in any wise pertaining to such election, notwithstanding any defect, error or omission, clerical or otherwise, on the part of, or under the direction of said City Council, or officer or officers in connection with, or pertaining to the proceedings incident to the issuance of said bonds, as the case may be.

Section 2. Whereas, this Act is necessary for the support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall take effect on and after its passage and approval.

Approved January 27, 1923.

CHAPTER 4.

(H. B. 46)

LEGALIZING DRY RUN SCHOOL DISTRICT BOND ISSUE.

AN ACT Entitled, An Act Legalizing All Proceedings of the Dry Run School District No. 7, in the County of Stanley, Upon the Issuance of Bonds for the Purpose of Purchasing a Suitable Site and Erecting a Suitable Building for School Purposes in Said District, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That the election held within the Dry Run School District No. 7, in the County of Stanley and State of South Dakota, on the 18th day of July, 1922, for the purpose of voting upon the question of issuing the bonds of said district to the amount of Four Thousand (\$4,000.00) Dollars, for the purpose of purchasing a suitable site and erecting a suitable building for school purposes in said district, said bonds to run for a period of not less than five nor more than twenty years, and all bonds to be issued pursuant thereto are hereby legalized, and declared valid, together with all the acts and proceedings of the governing body of said school district, or other officers, pertaining to the calling, giving notice of and holding, or in otherwise pertaining to

said election, notwithstanding any error or omission, clerical or otherwise, on the part of, or under the direction of said governing body or other officer or officers, in connection with or pertaining to any of said matters as the case may be.

Section 2. Whereas, this Act is necessary for the support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall take effect and be in full force on and after its passage and approval.

Approved February 13, 1923.

CHAPTER 5.

(S. B. 28.)

LEGALIZING CERTAIN SALES BY EXECUTORS AND ADMINISTRATORS

AN ACT Entitled, An Act Validating Certain Real Estate Sales Made by Administrators and Executors, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. All administrators' and executors' sales of real estate made and completed more than three (3) years prior to the final passage of this act, and the proceeds of which have been accounted for by the administrator or executor, and upon which the bond required by Section 3432 of the South Dakota Revised Code of 1919 was not given, are hereby legalized, cured and validated as fully as if such bond had been given in the manner required by said section.

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing institutions, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved February 10, 1923.

CHAPTER 6.

(S. B. 311.)

LEGALIZING AID TO HUTCHINSON CO. FAIR ASS'N.

AN ACT Entitled, An Act Legalizing and Validating the Proceedings of the County Commissioners of Hutchinson County, State of South Dakota, Relative to the Authorization and Payment of County Aid to the Hutchinson County Fair Association.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That the acts and proceedings of the Board of County Commissioners in and for the County of Hutchinson, State of South Dakota, relative to the authorization and payment of County Aid to the Hutchinson County Fair Association under the provisions of Section 7946 of the Revised Code of 1919, of the state of South Dakota, and the acts amendatory thereof for the year 1921 and prior years are hereby

legalized and declared valid, together with the acts and proceedings of the officers and directors of said Hutchinson County Fair Association in receiving and paying said funds for premiums in connection with the holding of the annual fairs of said association.

Section 2. That the Board of County Commissioners of Hutchinson County, State of South Dakota, be and the same is hereby authorized and empowered to pay to the Hutchinson County Fair Association for the year 1922, such sum or sums of money as County Aid under the provisions of Section 7946 of the Revised Code of 1919, of the State of South Dakota, and act amendatory thereof notwithstanding any defect, error, or omission, clerical or otherwise, on the part or under the direction of said Hutchinson County Fair Association, or the officers or directors thereof, in connection with or pertaining to said matter as the case may be.

Section 3. Whereas, this act is necessary for the immediate support of the State Government and existing public institutions, an emergency is hereby declared to exist, and this act shall take effect and be in full force from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 7.

(S. B. 320.)

LEGALIZING ONIDA INDEPENDENT SCHOOL DISTRICT BONDS

AN ACT Entitled, An Act Legalizing and Validating the Election Held on the 9th Day of February, 1923, in Onida Independent School District No. 1 of Onida, Sully County, South Dakota, for the Purpose of Voting On the Issuance of Bonds of Said District for the Purpose of Constructing and Furnishing a New School House Therein, and All Acts and Proceedings of the Board of Education of Said District, and All Other Officers Pertaining to Said Election.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That the election held in Onida Independent School District No. 1, of Onida, Sully County, South Dakota, on the 9th day of February, 1923, for the purpose of voting on the question of issuing bonds of said district in the amount of \$50,000.00; said bonds to be in denomination of \$1000.00 each, to be dated as of the 1st day of March, 1923, to bear interest at a rate not to exceed 5½% per annum, payable semi-annually on the 1st days of September and March in each year, said bonds to be payable at the First National Bank, Minneapolis, Minnesota, and said bonds to mature as follows:

\$10,000.00	March 1, 1933
\$15,000.00	March 1, 1938
\$25,000.00	March 1, 1943

and said bonds being issued for the purpose of constructing, erecting and furnishing a new school house in the City of Onida, in said District.

And all bonds to be issued pursuant thereto, are hereby legalized and declared valid, together with all proceedings of the Board of Education or other officers pertaining thereto, notwithstanding any error, clerical or otherwise, or any omissions on the part of the said Board of Education or other officers pertaining thereto or in the sufficiency of the resolutions or Notice of Election, or in the number of polling places, or in the pro-

ceedings pertaining to said matters, and that all bonds issued or to be issued thereunder or in pursuance to said election are hereby declared to be legal and valid obligations.

Approved March 2, 1923.

CHAPTER 8.

(H. B. 243.)

LEGALIZING QUINN BOND ISSUE

AN ACT Entitled, An Act Legalizing a Certain Bond Issue of the Town of Quinn, Pennington County, South Dakota, the Election Held to Vote Thereon and All Acts of the Officers of Said Town Incident to the Issuance of Said Bonds, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That the election held in the town of Quinn, Pennington County, South Dakota, on May 8, 1922, for the purpose of voting upon the question of issuing the bonds of said town in the amount of Fifteen Thousand Dollars (\$15,000.00) to provide money to construct and maintain a system of waterworks in and for said town, said bonds to run twenty years and to bear interest not to exceed seven per cent per annum, interest payable semi-annually; and all bonds issued or to be issued pursuant to said election are hereby legalized and declared valid, together with all acts and proceedings of the governing body of said town, or other officers, pertaining to the calling, giving notice of, holding and canvassing said election, or in any wise pertaining to said election, notwithstanding any error or omission, clerical or otherwise, on the part of or under the direction of said governing body or other officer or officers in connection with or pertaining to any of said matters.

Section 2. Whereas this act is necessary for the support of the state government and its existing institutions, an emergency is hereby declared to exist and this act shall take effect and be in full force from and after its passage and approval.

Approved February 27, 1923.

CHAPTER 9.

(H. B. 36)

LEGALIZING RAMONA WATER SYSTEM AND TAX LEVY.

AN ACT Entitled, An Act Legalizing the Issue of Warrants and the Acts of the Officers of the Incorporated Town of Ramona, Lake County, South Dakota, Their Proceedings, Contracts and Levies had in Furtherance of the Construction of An Extension to the Water System of Said Town; Validating the Tax Levy and Authorizing Said Town to Pay for the Same and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That whereas the Board of Trustees of the incorporated town of Ramona, South Dakota, on the 5th day of September,

1922, made and entered into a contract with one C. L. Breedlove to build and complete certain extensions to the water system of said town and whereas said incorporated town also purchased pipe and other necessary material and have incurred expenses in regard thereto and whereas said extension has been fully completed and has been accepted by said town and the total cost thereof is in the sum of \$3,551.27, and whereas the said Board of Trustees of said town levied a tax on the property of the said town in the sum of \$2,350 to be used in the payment of such extension and have issued warrants upon said sum in the amount of \$3,551.27 in full payment for the costs of building and materials for such improvements and the whole thereof, all acts of said Board of Trustees in the Town of Ramona, South Dakota, and other officers thereof and all acts done under their instructions or direction and all contracts, resolutions and proceedings had and taken in furtherance of the extension to the water system of said town are hereby declared legal notwithstanding any error or omission or lack of authority to do the same when so done or performed.

Section 2. That any levy of taxes already made to pay the costs of such extensions and all warrants of said town issued in payment thereof are hereby declared legal and valid, binding upon said town and legal obligations thereof.

Section 3. Whereas, this Act is necessary for the support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall take effect on and after its passage and approval.

Approved February 13, 1923.

CHAPTER 10.

(H. B. 157.)

LEGALIZING RAPID CITY SEWER BONDS

AN ACT Entitled, An Act Legalizing Certain Bond Issue of the City of Rapid City, Pennington County, South Dakota, Authorized by City Ordinance No. 275 of Said City, Entitled "An Ordinance Providing for the Issuance of Negotiable Coupon Bonds in Lieu of Assessment Certificates, for the Construction of a Sewer in Sewer District No. 3," and all Acts of the Officers of said City Incident to the Issue of said Bonds.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That all acts of the City Council of the City of Rapid City, Pennington County, South Dakota, and other city officers of said city, and all the acts done under the direction of said city officers, and all proceedings had and resolutions adopted in the furtherance thereof or pertaining to the issuance of those certain bonds of said Rapid City authorized by Ordinance No. 275 of said city, entitled "An ordinance providing for the issuance of negotiable coupon bonds in lieu of assessment certificates, for the construction of a sewer in Sewer District No. 3," be and the same are hereby legalized and declared to be valid, notwithstanding any errors, clerical or otherwise, or any omissions on the part of the City Council or other municipal officers in the proceedings incident to the issuance of said bonds.

Section 2. That all bonds issued, or to be issued, by the City of

Rapid City, Pennington County, South Dakota, through its City Council, for the purpose set forth in section 1 of this act, be and the same are hereby legalized and declared to be valid.

Approved March 6, 1923.

CHAPTER 11.

(H. B. 175.)

LEGALIZING RAPID CITY SPECIAL ASSESSMENTS

AN ACT Entitled, An Act Legalizing and Validating Certain Issues of Certificates of Special Assessments of the City of Rapid City, Pennington County, South Dakota, and all Acts of the Officers of Said City Incident to the Issuing of Said Certificates, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That all Acts of the Board of Commissioners of the City of Rapid City, Pennington County, South Dakota, and all other officers of said City, and all the Acts done under the direction of said officers and all proceedings had, and resolutions adopted, in furtherance thereof or pertaining to the issuance of those certain Certificates of Special Assessments of the City of Rapid City, issued for the purpose of paying the cost of constructing all the following described improvements, to-wit:

(1) All improvements in Storm Sewer District No. Three as described in the proceedings of the Board of Commissioners of the said Rapid City;

(2) Paving, curbing and otherwise improving Main Street from Fifth Street to Ninth Street, including the intersections of Sixth, Seventh and Eighth Streets with said Main Street;

(3) Paving, curbing and otherwise improving St. Joseph Street from Fifth Street to Ninth Street, including the intersection of Sixth, Seventh and Eighth Streets with St. Joseph Street;

(4) Paving, curbing and otherwise improving Ninth Street from St. Joseph Street to Main Street, including the intersections of St. Joseph Street and Main Street with said Ninth Street;

(5) Paving, curbing and otherwise improving Eighth Street from St. Joseph Street to the Right of Way of the Chicago & Northwestern Railroad Company on Rapid Street;

(6) Paving, curbing and otherwise improving Seventh Street from St. Joseph Street to the Right of Way of the Chicago & Northwestern Railroad Company on Rapid Street;

(7) Paving, curbing and otherwise improving Sixth Street from St. Joseph Street to the Right of Way of the Chicago & Northwestern Railroad Company on Rapid Street;

(8) Paving, curbing and otherwise improving Fifth Street from St. Joseph Street to the Right of Way of the Chicago & Northwestern Railroad Company on Rapid Street, including the intersection:

(9) Paving, curbing and otherwise improving Main Street from Ninth Street to West Boulevard;

(10) Paving, curbing and otherwise improving St. Joseph Street from Ninth Street to West Boulevard;

(11) Paving, curbing and otherwise improving Ninth Street from Main Street to the track of the Chicago & Northwestern Railroad Com-

pany on the Right of Way of the Chicago & Northwestern Railroad Company near Rapid Street.

(12) All the improvements in Sewer District Number Four as described in the proceedings of the Board of Commissioners of the said Rapid City: be and the same are hereby legalized and declared to be valid notwithstanding any errors, clerical or otherwise, or any omission on the part of the Board of Commissioners of said City of Rapid City, South Dakota, or of any other municipal officers or others acting under the direction of said Board in the proceedings incident to the issuance of said Certificates of Special Assessments.

Section 2. That all Certificates of Special Assessments issued by said City of Rapid City through its board of Commissioners for the purposes mentioned in the preceding section; be, and the same are, hereby legalized and declared valid.

Section 3. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 12.

(H. B. 170.)

LEGALIZING SCHOOL WARRANTS

AN ACT Entitled, An Act Legalizing and Validating Certain School Warrants.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Where the officers of any organized school district in this State shall have incurred indebtedness and issued warrants therefor prior to the passage of this act in any such cases where said warrants are within the debt limit and are outstanding the same are hereby legalized and are declared to be the valid indebtedness of said school district.

Section 2. This act shall not affect any actions now pending in which the validity of such warrants or indebtedness is called in question, nor shall it effect any warrant a defense for the payment of which is claimed or asserted by the district issuing the same.

Approved March 6, 1923.

CHAPTER 13.

(H. B. 176.)

ORGANIZATION OF UNITYVILLE SCHOOL DISTRICT

AN ACT Entitled, An Act Legalizing and Validating all Acts and Proceedings Relating to the Division of Sun Prairie School District No. 3 of McCook County, South Dakota, and to the Creation and Organization of Unityville School District No. 22 in said County and Legalizing the Acts of Unityville School District No. 22 and its Officers, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That all acts and proceedings relating and pertaining to the division of Sun Prairie School District No. 3 of McCook County, South Dakota, and to the creation and organization of Unityville School District No. 22 in said county are hereby legalized and validated as of the date of such division, creation and organization, notwithstanding any irregularities or errors therein, and said Unityville School District No. 22, consisting of sections 16, 17, 18, 19, 20, and 21, including the platted town of Unityville, all in township 104 North, Range 55, West of 5th Principal Meridian in McCook County, South Dakota, is hereby declared to have existed as such legal common school district corporation since the time of the division and organization above referred to; and all acts of said Unityville School District No. 22 and of its officers, and all proceedings for bonding or taxation, acquiring of school house site, building of school house, and all notes and warrants or other evidence of indebtedness issued in payment for such site or school house, are hereby ratified, legalized and validated.

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing institutions, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 14.

(H. B. 38)

LEGALIZING WALL WATERWORKS BOND ISSUE.

AN ACT Entitled, An Act Legalizing and Validating a Bond Issue of the Town of Wall, Pennington County, South Dakota, and All Acts and Proceedings of the Officers of Said Town Relating to or Incident to the Issuance of Such Bonds, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That all acts of the Board of Trustees of the Town of Wall, Pennington County, South Dakota, and of all other officers of said Town, and all acts done under their direction, and all proceedings had, and resolutions adopted, in furtherance thereof or pertaining to the issuance of bonds in the amount of Seventeen Thousand Dollars (\$17,000.00) for the purpose of erecting, constructing, equipping and maintaining in said Town of Wall a system of waterworks and to provide water for fire protection and domestic use be, and the same

are hereby, legalized and declared valid notwithstanding any errors, clerical or otherwise, or any omission on the part of said Board of Trustees of said Town or of other municipal officers or others acting under the direction of said Board in the proceedings incident to the issuance of said bonds.

Section 2. That all bonds issued or to be issued by the said Town of Wall, Pennington County, South Dakota, through its Board of Trustees for the purpose mentioned in the preceding section and which are referred to in the Petition filed and the Resolution passed by the said Board on the 7th day of August, 1922, and voted upon at the election held in the said Town of Wall on the 22nd day of August, 1922, be, and the same are hereby, legalized and declared valid.

Section 3. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1923.

Agriculture

CHAPTER 15.

(S. B. 138.)

RELATING TO THE MARKETING OF AGRICULTURAL PRODUCTS

AN ACT Entitled, An Act to Promote, Foster and Encourage the Intelligent and Orderly Marketing of Agricultural Products Through Co-operation and to Eliminate Speculation and Waste; and to Make the Distribution of Agricultural Products as Directly as Can Be Efficiently Done Between Producer and Consumer; to Stabilize the Marketing Problems of Agricultural Products and to Supply Its Members Necessary Equipment, and to Provide for the Formation of Corporations to Carry Out the Purposes of This Act.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. **Definitions As Used in This Act.** (a) The term "agricultural products" shall include horticultural, forestry, dairy, livestock, poultry, beef and other farm products.

(b) The term "member" shall include actual members of associations without capital stock and holders of common stock in associations organized with capital stock.

(c) The term "association" means any corporation organized under this act; and

(d) The term "person" shall include individuals, firms, partnerships, corporations and associations.

Associations organized hereunder shall be deemed non-profit, inasmuch as they are not organized to make profits for themselves, as such, or for their members, as such, but only for their member as producers. This Act shall be referred to as the "Cooperative Marketing Act."

Section 2. **Who May Organize.** Five or more persons engaged in the production of agricultural products may form a non-profit cooperative

association with or without capital stock, under the provisions of this act.

Section 3. Purposes. An association may be organized to engage in any activity in connection with the marketing or selling of the agricultural products of its members or with the harvesting, preserving, drying, processing, canning, packing, storing, handling, shipping, or utilization thereof, or the manufacturing or marketing of the by-products thereof; or in connection with the manufacturing, selling or supplying to its members of machinery, equipment or supplies, or the financing of the above enumerated activities; or in any one or more of the activities specified herein.

Section 4. Preliminary Investigation. The Commissioner of Agriculture shall, upon request by any group of persons contemplating the organization of an association under this act, furnish to them the best available information as to methods of organization and possibilities of success, and shall, when requested to do so, make needed surveys of the marketing conditions affecting such commodities in so far as the personnel of his department makes such assistance possible.

Section 5. Powers. Each association incorporated under this act shall have the following powers:

(a) To engage in any activity in connection with the marketing, selling, harvesting, preserving, drying, processing, canning, packing, storing, handling or utilization of any agricultural products produced or delivered to it by its members; or the manufacturing or marketing of the by-products thereof; or in connection with the purchase, hiring or use by its members of supplies, machinery or equipment; or in the financing of any such activities; or in any one or more of the activities specified in this section. No association, however, shall handle the agricultural products of any non-member.

(b) To borrow money and to make advances to members.

(c) To act as the agent or representative of any member or members in any of the above mentioned activities.

(d) To purchase, or otherwise acquire and to hold, own, and exercise all rights of ownership in and to sell, transfer, or pledge shares of capital stock or bonds of any corporation or association engaged in any related activity or in the handling or marketing of any of the products handled by the association.

(e) To establish reserves and to invest the funds thereof in bonds or such other property as may be provided in the by-laws.

(f) To buy, hold, and exercise all privileges of ownership, over such real or personal property as may be necessary or convenient for the conduct and operation of any of the business of the association or incidental thereto.

(g) To do each any everything necessary, suitable, or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the objects herein enumerated or conducive to or expedient for the interest or benefit of the association; and to contract accordingly; and in addition to exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged; and in addition any other rights, powers, and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this act, and to do any such thing anywhere.

Section 6. Members. (a) Under the terms and conditions prescribed in its by-laws, an association may admit as members, or issue common stock, only to persons engaged in the production of the agricul-

tural products to be handled by or through the association, including the lessees and tenants of land used for the production of such products and any lessors and landlords who receive as rent part of the crop raised on the leased premises.

(b) If a member of a non-stock association be other than a natural person, such member may be represented by any individual, associate, officer or member thereof duly authorized in writing.

(c) Any association organized hereunder may become a member or stockholder of any other association or associations, organized hereunder.

Section 7. Articles of Incorporation. Each association formed under this act must prepare and file articles of incorporation, setting forth:

- (a) The name of the association;
- (b) The purpose for which it is formed;
- (c) The place where its principal business will be transacted;
- (d) The term for which it is to exist, not exceeding forty years;
- (e) The number of its directors or trustees, which shall not be less than five nor more than thirteen, and the names and residences of those who are appointed for the first three months and until their successors are elected and qualified.

(f) If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; and if unequal, the articles shall set forth the general rule or rules applicable to all members by which the property rights and interests, respectively, of each member may and shall be determined and fixed and the association shall have the power to admit new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules. This provision of the articles of incorporation shall not be altered, amended or repealed except by written consent or vote of three-fourths of the members.

(g) The articles must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the laws of this state to take and certify acknowledgments of deeds and conveyances; and shall be filed in accordance with the provisions of the general corporation law of this state, and when so filed the said articles of incorporation, or certified copies thereof, shall be received in all the courts of this state, and other places, as prima facie evidence of the facts contained therein, and of the due incorporation of such association.

Section 8. Amendments to Articles of Incorporation. The articles of incorporation may be altered or amended at any regular meeting or at any special meeting called for that purpose. An amendment must first be approved by two-thirds of the directors and then adopted by a vote representing a majority of all the members of the association. Amendments to the articles of incorporation when so adopted shall be filed in accordance with the provisions of the general corporation law of this state.

Section 9. By-Laws. Each association incorporated under this act must, within thirty days after its incorporation, adopt for its government and management a code of by-laws, not inconsistent with the powers granted by this act. A majority vote of the members or stockholders, or their written assent is necessary to adopt such by-laws.

Each association under its by-laws shall also provide for:

- (a) The time, place, and manner of calling general and special meetings.
- (b) The number of stockholders or members constituting a quorum.
- (c) The method of electing directors and officers.
- (d) The number of directors constituting a quorum.
- (e) The qualifications, compensation and duties and term of office

of directors and officers; time of their election and the mode and manner of giving notice thereof.

(f) The qualifications of members or stockholders of the association and the conditions precedent to membership or ownership of common stock, the method, time and manner of permitting members to withdraw or the holders of common stock to transfer their stock; the manner of assignment and transfer of the interest of members, and the shares of common stock; the conditions upon which, and the time when membership of any member shall cease. The automatic suspension of the rights of a member when he ceases to be eligible to membership in the association, and mode, manner and effect of the expulsion of a member; manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or stockholder or upon the expulsion of a member or forfeiture of his membership, or at the option of the association, by conclusive appraisal by the board of directors.

Optional Provisions. Each association under its by-laws may also provide for any of the following matters:

(a) The right of members or stockholders to vote by proxy or by mail or by both, and the conditions, manner, form and effects of such votes.

(b) Penalties for violations of the by-laws.

(c) The amount of entrance, organization and membership fees, if any; the manner and method of collection of the same and the purposes for which they may be used.

(d) The amount which each member or stockholder shall be required to pay annually or from time to time, if at all, to carry on the business of the association, the charge, if any, to be paid by each member or stockholder for services rendered by the association to him and the time of payment and the manner of collection; and the marketing contract between the association and its members or stockholders which every member or stockholder may be required to sign.

Section 10. General and Special Meetings—How Called. In its by-laws each association shall provide for one or more regular meetings annually. The board of directors shall have the right to call a special meeting at any time and ten per cent of the members or stockholders may file a petition stating the specific business to be brought before the association and demand a special meeting at any time. Such meetings must thereupon be called by the directors. Notice of all meetings, together with a statement of the purposes thereof, shall be mailed to each member at least ten days prior to the meeting; provided, however, that the by-laws may require instead that such notice may be given by publication in a newspaper of general circulation, published at the principal place of business of the association.

Section 11. Directors—Election. The affairs of the association shall be managed by a board of not less than five directors, elected by the members or stockholders from their own number. The by-laws may provide that the territory in which the association has members shall be divided into districts and that the directors shall be elected according to such districts. In such a case the by-laws may provide that primary elections should be held in each district to elect the directors apportioned to such districts and the result of all such primary elections must be ratified by the next regular meeting of the association.

An association may provide a fair remuneration for the time actually spent by its officers and directors in its service. No director, during the term of his office, shall be a party to a contract for profit with the asso-

ciation, differing in any way from the business relations accorded regular members or holders of common stock of the association.

When a vacancy on the board of the directors occurs, other than by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the by-laws provide for an election of directors by district.

In such case the board of directors shall immediately call a special meeting of the members or stockholders in that district to fill the vacancy.

Section 12. Election of Officers. The directors shall elect from their number a president and one or more vice-presidents. They shall also elect a secretary and treasurer who need not be directors and they may combine the two latter offices and designate the combined office as secretary-treasurer. The treasurer may be a bank or any depository, and as such shall not be considered as an officer, but as a function of the board of directors. In such case the secretary shall perform the usual accounting duties of the treasurer, excepting that the funds shall be deposited only as authorized by the board of directors.

Section 13. Stock—Membership Certificates—When Issued—Voting—Liability—Limitation on Transfer and Ownership. When a member of an association established without capital stock, has paid his membership fee in full, he shall receive a certificate of membership. No association shall issue stock to a member until it has been fully paid for. The promissory notes of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note, but such retention as security shall not affect the members' right to vote. Except for debts lawfully contracted between him and the association, no member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance or any promissory notes given in payment thereof.

No stockholder of a cooperative association shall own more than one-twentieth of the issued common stock of the association; and an association, in its by-laws, may limit the amount of common stock which one member may own to any amount less than one-twentieth of the issued common stock.

No member or stockholder shall be entitled to more than one vote.

The by-laws shall prohibit the transfer of the common stock of the association to persons not engaged in the production of the agricultural products handled by the association, and such restrictions must be printed upon every certificate of stock subject thereto. The association may at any time, except when the debt of the association exceeds fifty per cent of the assets thereof, buy in or purchase its common stock at book value thereof as conclusively determined by the board of directors and pay for it in cash within one year thereafter.

Section 14. Removal of Officer or Director. Any member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition signed by ten per cent of the members, requesting the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association, and by a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. The director or the officer against whom such charges have been brought shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the

meeting to be heard in person or by counsel, and to present witnesses; and the person or persons bringing the charges against him shall have the same opportunity. In case the by-laws provide for the election of directors by districts with primary elections in each district, then the petition for removal of a director must be signed by twelve per cent of the members residing in a district from which he was elected, and such twelve per cent of the members of his own district shall be sufficient to bring about such action. The board of directors must call a special meeting of the members residing in that district to consider the removal of the director. By a vote of the majority of the members of that district, the director in question shall be removed from office.

Section 15. Referendum. Upon demand of forty per cent of the entire board of directors any matter that has been approved or passed by the board must be referred to the entire membership or the stockholders for decision at the next special or regular meeting; provided, however, that a special meeting may be called for the purpose.

Section 16. Marketing Contract. The association and its members may make and execute marketing contracts, requiring the members to sell, for any period of time, not over ten years, all or any specified part of their agricultural products or specified commodities exclusively to or through the association or any facilities to be created by the association. The contract may provide that the association may sell or resell the products of its members with or without taking title thereto, and pay over to its members the resale price, after deducting all necessary selling, overhead and other costs and expenses. The by-laws and the marketing contract may fix as liquidated damages, specific sums to be paid by the members or stockholders to the association upon the breach by him of any provisions of the marketing contract regarding the sale or delivery or withholding of products and may further provide that the member will pay all cost, premiums for bonds, expenses and fees in case any action is brought upon the contract by the association, and any such provisions shall be valid and enforceable in the courts of this state. In the event of any such breach or threatened breach of such marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract, and to a decree of specific performance thereof. Pending the adjudication of such an action and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member.

Section 17. Annual Reports. Each association formed under this act shall prepare and make out an annual report on forms furnished by the Commissioner of Agriculture or other State official designated to receive such reports, containing the name of the association, its principal place of business and a general statement of its business operations during the fiscal year, showing the amount of capital stock paid up and the number of stockholders of stock associations or the number of members and the amount of membership fees received, if a non-stock association; the total expenses of operation; the amount of its indebtedness or liability, and its balance sheets.

Section 18. Contracts and Agreements With Other Associations. Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper stipulations, agreements, and contracts and arrangements with any other co-operative corporation, association or associations, formed in this or in any other state, for the co-operative and more economical carrying on of its business, or any part or parts thereof. Any two or more associations may by agreement

between them, unite in employing and using or may separately employ and use the same methods, means and agencies for carrying on and conducting thir respective businesses.

Section 19. Association Heretofore Organized May Adopt the Provisions of This Act. Any corporation or association organized under previously existing statutes may by majority vote of its stockholders or members be brought under the provisions of this act by limiting its membership and adopting the other restrictions as provided herein. It shall make out in duplicate a statement signed and sworn to by its directors, upon forms supplied by the Secretary of State, to the effect that the corporation or association has by a majority vote of its stockholders or members decided to accept the benefits and be bound by the provisions of this act. Articles of incorporation shall be filed as required in Section 8763 of the South Dakota Revised Code of 1919, except that they shall be signed by the members of the board of directors. The filing fee shall be the same as for filing an amendment to articles of incorporation.

Section 20. Constitutionality. If any section of this act shall be declared unconstitutional for any reason the remainder of this act shall not be affected thereby.

Section 21. Filing Fees. For filing articles of incorporation an association organized hereunder shall pay to the Secretary of State, five dollars; and for filing an amendment to the articles, two and one-half dollars.

Section 22. Whereas, this Act is necessary for the immediate support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved February 27, 1923.

Appropriations

CHAPTER 16.

(S. B. 316.)

GENERAL APPROPRIATION BILL

AN ACT Entitled, An Act Appropriating Money for Salary and Expense of the Legislative, Executive and Judicial Departments of the State, for Salaries and Expense of all Officers, Boards and Departments, for Support and Maintenance of the Educational, Charitable and Penal Institutions, and the Soldiers' Home, Maintenance of the State House, Maintenance of National Guard, for Geological and Soil Survey and in Aid of Normal Training in the High School and in Aid of Rural and Consolidated Schools, and Maintenance of Custer State Park.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated the following sums of money, or so much thereof as may be necessary, out of the money in the treasury not otherwise appropriated, for the payment of the salaries and expenses of the Executive and Judicial Departments of the State,

the salaries and expenses of all State officers, boards and departments, the support and maintenance of the educational and charitable and penal institutions of the State, maintenance of State House, the maintenance of National Guard, the support and maintenance of the Soldiers' Home, for the geological and soil survey and in aid of normal training in high school and in aid of rural and consolidated schools and maintenance of the Custer State Park and Legislative expense for the members of the Eighteenth Legislative Session—provided for under Chapter 279 of the Session Laws of 1921, for the fiscal year ending June 30th, 1924, and the fiscal year ending June 30th, 1925.

Section 2.

ATTORNEY GENERAL'S OFFICE

Salaries:	1923-1924	1924-1925
Attorney General	\$ 1,000.00	\$ 1,000.00
Assistant to Railroad Commission	3,600.00	3,600.00
Assistant to Attorney General	3,600.00	3,600.00
Assistant to Attorney General	3,600.00	3,600.00
Assistant to Attorney General	3,600.00	3,600.00
Brief Clerk	1,800.00	2,000.00
Two stenographers	2,940.00	2,940.00
Extra stenographic hire	100.00	160.00
Traveling Expenses and Special Assistants....	3,100.00	3,100.00
Printing Briefs, Binding and Publication of Notices	1,535.00	1,535.00
Premium on Surety Bonds	7.50	7.50
Court costs	200.00	200.00
Telephone, Telegraph and Express	160.00	160.00
Office Supplies, Postage, Offices Fixtures, Law		
Books and Incidentals	600.00	600.00
	<u>\$ 25,842.50</u>	<u>\$ 26,042.50</u>

Section 3.

AUDITOR

Salaries:		
Auditor	\$ 1,800.00	\$ 1,800.00
Deputy	2,520.00	2,520.00
Clerk Hire	9,000.00	9,000.00
Expense Allowance of Auditor	1,200.00	1,200.00
Office Supplies	1,500.00	1,500.00
Postage, Express, Telegraph, Telephone and		
Traveling Expense	990.00	990.00
Binding	25.00	25.00
Premium, Surety Bond	37.50	37.50
Furniture and Fixtures, Replacement and Re-		
pairs	200.00	200.00
For Administering expense of Cigarette Tax..	1,500.00	for biennium
	<u>\$ 18,772.50</u>	<u>\$ 17,272.50</u>

Section 4.

ADJUTANT GENERAL

Salaries:

Adjutant General	\$ 2,500.00	\$ 2,500.00
Quartermaster	2,400.00	2,400.00
Chief Clerk	1,380.00	1,380.00
Temporary help	2,500.00	2,180.00
Supplies and Materials	5,120.00	5,120.00
Traveling Expenses, Postage, Freight, Telephone, Telegraph and Express	4,675.00	4,650.00
Sustenance and Care of Animals and People and Storage of Vehicles	895.00	895.00
Printing and Binding		175.00
Heat, Light and Power	125.00	125.00
Repairs and Improvements	1,375.00	1,550.00
Rent of Armory	5,000.00	5,000.00
Premium on Surety Bond and Insurance on Buildings and Equipment	280.00	275.00
Refund Awards and Indemnities	50.00	50.00
Soldiers' Relief Fund		2,500.00
	<u>\$ 26,300.00</u>	<u>\$ 28,800.00</u>

Section 5.

DEPARTMENT OF BANKING AND FINANCE

Salary of Superintendent	\$ 4,500.00	\$ 4,500.00
Salary of Deputy	3,000.00	3,000.00
Examiners—eight	18,000.00	18,000.00
Guaranty Fund Commission	2,000.00	2,000.00
Traveling Expenses of Guaranty Fund Commis- sion	2,000.00	2,000.00
	<u>\$ 29,500.00</u>	<u>\$ 29,500.00</u>

Section 6.

COMMISSIONER OF SCHOOL AND PUBLIC LANDS

Salary of Commissioner	\$ 1,800.00	\$ 1,800.00
Salaries of Deputy, Forest Supervisor, Clerks, Stenographers, Timber Scaler and Other Employees	19,660.00	19,660.00
Office, Field and Traveling Expenses, Including Administration of State Forest, Court Costs and Advertising Lease and Sale Notices....	13,710.00	12,325.00
Expense of Commissioner	1,200.00	1,200.00
	<u>\$ 36,370.00</u>	<u>\$ 34,985.00</u>

Section 7.

CIRCUIT JUDGES

Salary of Eighteen Judges	\$ 45,000.00	\$ 45,000.00
Expense	16,200.00	16,200.00
Expense Outside Circuits	1,000.00	for biennium
	<u>\$ 62,200.00</u>	<u>\$ 61,200.00</u>

Section 8.

CUSTER STATE PARK

Maintenance	\$ 12,500.00	\$ 12,500.00
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Section 9.

STATE ENGINEER

Salaries:		
Engineer	\$ 3,600.00	\$ 3,600.00
Heating Engineer	3,000.00	3,000.00
Assistants, Clerk Hire, Stationery, Traveling Expense, Incidentals and Instruments	3,000.00	3,000.00
	<u>\$ 9,600.00</u>	<u>\$ 9,600.00</u>

Section 10.

FREE LIBRARY COMMISSION

Salaries:		
Field Librarian	\$ 1,900.00	\$ 1,900.00
Reference Librarian	1,600.00	1,600.00
Assistant	1,000.00	1,000.00
Maintenance:		
Books	1,840.00	1,840.00
Periodicals	200.00	200.00
Binding	200.00	200.00
Traveling	800.00	800.00
Postage, Express and Freight	180.00	180.00
Supplies	300.00	300.00
Printing	60.00	60.00
Shelving and New Equipment	150.00	150.00
Bulletin	120.00	120.00
Extra Assistance	1,025.00	1,025.00
Miscellaneous	50.00	50.00
	<u>\$ 9,425.00</u>	<u>\$ 9,425.00</u>

Section 11.

FOOD AND DRUG DEPARTMENT

Salaries:		
Commissioner	\$ 3,600.00	\$ 3,600.00
Deputy	2,100.00	2,100.00
Stenographer and Clerks	3,000.00	3,000.00
Inspectors	16,400.00	16,400.00
Chemists and Laboratory Assistants	5,400.00	5,400.00
Postage and box rent	1,200.00	1,200.00
Laboratory Supplies and Expense	800.00	800.00
Department Bulletins and Circulars	850.00	850.00
Telephone, Telegraph, Express, Freight, Dray- age and Traveling Expense	12,850.00	12,850.00
Office Supplies and Furniture, Inspectors' Sup- plies and Printing and Miscellaneous Items.	1,600.00	1,600.00
Reference Books, Journals and Binding	150.00	150.00
Automobiles, Trucks and Repairs of Same	1,500.00	1,500.00
	<u>\$ 49,450.00</u>	<u>\$ 49,450.00</u>

Section 12.

GOVERNOR

Salary of Governor	\$ 3,000.00	\$ 3,000.00
For Salary of Private Secretary, Clerk Hire, Stenographers, Stationery, Office Supplies, Postage, Railroad Fare, Hotel, Rent and Liv- ing Expenses and Other Traveling Ex- penses and Incidentals	9,400.00	9,400.00
	<u>\$ 12,400.00</u>	<u>\$ 12,400.00</u>

Section 13.

DEPARTMENT OF HISTORY

Salaries:

Superintendent	\$ 3,000.00	\$ 3,000.00
Assistant Superintendent	1,800.00	1,800.00
Legislative Reference Librarian	1,500.00	1,500.00
Stenographer	1,080.00	1,080.00
Office and Traveling Expense	1,200.00	1,200.00
Expense, Fourth State Census		1,500.00
	<u>\$ 8,580.00</u>	<u>\$ 10,080.00</u>

Section 14.

IMMIGRATION COMMISSIONER

Salaries:

Commissioner	\$ 3,600.00	\$ 3,600.00
Assistant Stenographer and Mailing Clerk..	4,500.00	4,500.00
Periodical and Newspaper Advertising	1,500.00	1,500.00
Expense of Collaborating with C. M. & St. P. Ry. Advertising Car Four Months Salary and Expense of Man or Fair Exhibits; Ex- pense of Same With M. & St. L. Ry. or Fair Exhibits; Fair Exhibits in Minnesota, Iowa or Elsewhere, Salary and Expense of Person in Charge	5,400.00	5,400.00
Publications of Office and Cuts, Freight and Express, Traveling Expenses of Commis- sioner and Employees in Charge of Exhibits at Fairs	4,900.00	4,900.00
Postage, Telegrams, Telephone Messages, Sta- tionery and Office Supplies and Miscellan- eous Expenses	1,500.00	1,500.00
	<u>\$ 21,400.00</u>	<u>\$ 21,400.00</u>

Section 15.

INDUSTRIAL COMMISSIONER

Salaries:

Deputy Commissioner	\$ 2,400.00	\$ 2,400.00
Stenographer	1,200.00	1,200.00
Additional Salary	450.00	450.00
Office Supplies	300.00	300.00
Communication and Transportation	700.00	700.00

Reports and Bulletins	75.00	75.00
Furniture, Fixtures and Repairs	125.00	125.00
Workmen's Compensation, Available for Bien- nium	7,500.00	
	<u>\$ 12,750.00</u>	<u>\$ 5,250.00</u>

Section 16.

LIVE STOCK SANITARY BOARD

Salaries:

Superintendent	\$ 3,000.00	\$ 3,000.00
Secretary	2,500.00	2,500.00
Inspectors—Two	3,600.00	3,600.00
Clerk	1,500.00	1,500.00
Stenographer	1,200.00	1,200.00
Expense, Per Diem, Office and Traveling Ex- penses, etc.	11,300.00	11,300.00
Indemnity	33,000.00	33,000.00
	<u>\$ 56,100.00</u>	<u>\$ 56,100.00</u>

Section 17.

DEPARTMENT OF AGRICULTURE

For Promoting Agricultural Development and Co-operative Marketing as Required by Sections 2 and 3, Chapter 190, Laws of 1921..	\$ 12,500.00	\$ 12,500.00
For Cost of Production Survey as Required by Section 4, Chapter 190, Laws of 1921.....	15,000.00	15,000.00
Salary of Commissioner	4,000.00	4,000.00
Clerk Hire	2,340.00	2,340.00
Office Supplies, Traveling Expense, etc.....	4,000.00	4,000.00
Barberry Eradication	5,000.00	5,000.00
	<u>\$ 42,840.00</u>	<u>\$ 42,840.00</u>

Section 18.

Expense Allowance available for the Expenses of the Members of the Eighteenth Legisla- tive Session—Chapter 279, Laws of 1921..		\$ 28,800.00
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Section 19.

MINE INSPECTOR

Salary of Mine Inspector	\$ 2,400.00	\$ 2,400.00
Expense	600.00	600.00
	<u>\$ 3,000.00</u>	<u>\$ 3,000.00</u>

Section 20.

BUREAU OF PUBLIC PRINTING

Salary of Commissioner	\$ 3,600.00	\$ 3,600.00
Expense	540.00	540.00
	<u>\$ 4,140.00</u>	<u>\$ 4,140.00</u>

Section 21.

BOARD OF RAILROAD COMMISSIONERS

Salaries:

Commissioners	\$ 11,500.00	\$ 11,916.67
Secretary	2,500.00	2,500.00
Assistant Secretary	1,800.00	1,800.00
Engineer	3,240.00	3,240.00

Statistician	3,240.00	3,240.00
Rate Expert	4,000.00	4,000.00
Assistant Rate Expert	2,400.00	2,400.00
Reporter	1,800.00	1,800.00
Clerk and Stenographer	1,500.00	1,500.00
Stenographer	1,320.00	1,320.00
Stenographer	1,200.00	1,200.00
Stenographer	1,200.00	1,200.00
Special Assistants, Expense Rate and Valuation Cases and Incidentals	1,400.00	1,400.00
Expense of Representatives in Washington....	500.00	500.00
Traveling Expenses of Commissioners and Em- ployees	7,500.00	7,500.00
Office Expenses, Including Stationery, Supplies, Postage, Printing, Telegrams, Telephone Messages, Freight, Express, Drayage, Inci- dentals, Expenses, etc	4,732.50	4,732.50
	<u>\$ 49,832.50</u>	<u>\$ 50,249.17</u>

Section 22.

SECRETARY OF STATE

Salaries:

Secretary	\$ 1,800.00	\$ 1,800.00
Assistant Secretary	2,500.00	2,500.00
Chief Clerk	1,620.00	1,620.00
Recording Clerk	1,740.00	1,740.00
Indexing Clerk and Stenographer	1,280.00	1,280.00
Expense of Secretary	1,200.00	1,200.00
Office Supplies, Charters, Notary Commissions, Pamphlet Forms and Office Equipment....	1,500.00	1,500.00
Postage and File	480.00	480.00
Surety Bond	20.00	20.00
Printing Supreme Court Records	1,400.00	1,400.00
	<u>\$ 13,540.00</u>	<u>\$ 13,540.00</u>

Section 23.

STATE SHERIFF

Salaries:

State Sheriff	\$ 3,600.00	\$ 3,600.00
Office Assistants	3,300.00	3,300.00
Special Agents and State Constabulary....	16,425.00	16,425.00
Expense, State Sheriff, Special Agents and Con- stabulary	18,205.00	18,205.00
Purchase and Upkeep of Automobiles	1,200.00	1,200.00
Postage, Printing and Office Supplies, Includ- ing Furniture and Fixtures	550.00	550.00
Telephone and Telegraph (office)	320.00	320.00
	<u>\$ 43,600.00</u>	<u>\$ 43,600.00</u>

Section 24.

SECURITIES COMMISSION

Executive Officer	\$ 3,600.00	\$ 3,600.00
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Section 25.

SUPERINTENDENT OF PUBLIC INSTRUCTION

Salary of Superintendent	\$ 1,800.00	\$ 1,800.00
Superintendent's Expenses	1,200.00	1,200.00
Salaries:		
Deputy Superintendent	3,000.00	3,000.00
Supervisor of High Schools	3,000.00	3,000.00
Supervisors of Rural Schools (2)	4,400.00	4,400.00
Chairman of Board of Examiners	2,000.00	2,000.00
Examination Clerk	1,500.00	1,500.00
Credentials Clerk	1,500.00	1,500.00
Office Clerk	1,500.00	1,500.00
Stenographers (3)	3,780.00	3,780.00
Examining Board and Extra Clerical Assistants	3,920.00	3,920.00
Maintenance:		
Traveling Expenses:		
Individual	6,645.00	6,645.00
Auto Supplies and Expenses	1,500.00	1,500.00
Printing and Stationery	3,000.00	3,000.00
Furniture and Office Equipment	750.00	750.00
Express, Telephone, Telegraph, Freight and Drayage, Postage and Stamped Envelopes	2,100.00	2,100.00
Reading Circle	250.00	250.00
Premium on Superintendent's Bond	5.00	5.00
Total Maintenance	\$ 11,950.00	\$ 11,950.00
State Aid Fund:		
Rural Schools, Consolidated Schools, Normal Training to High Schools, Vocational Education, Americanization	\$190,000.00	\$190,000.00
Rehabilitation of Persons Injured in Industry	6,050.00	6,050.00
	<u>\$235,600.00</u>	<u>\$235,600.00</u>

Section 26.

SUPREME COURT

Salaries:		
Five Judges	\$ 15,000.00	\$ 15,000.00
Clerk	2,500.00	2,500.00
Court Marshal and Librarian	1,500.00	1,500.00
Deputy Clerk	1,500.00	1,500.00
Stenographers (5)	5,400.00	5,400.00
Reporter	800.00	800.00
Expense of Reporter	700.00	700.00
Expense—Judges (Provided by Law)	9,000.00	9,000.00
General Maintenance Fund for Library, Stationery, Supplies, Furniture and Expense of Disbarment Proceedings	4,500.00	4,500.00
	<u>\$ 40,900.00</u>	<u>\$ 40,900.00</u>

Section 27.

STATE HOUSE

Salary of Custodian	\$ 2,270.00	\$ 2,270.00
Maintenance	56,775.00	63,160.00
Improvements and Repairs	10,700.00	
	<u>\$ 69,745.00</u>	<u>\$ 65,430.00</u>

Section 28.

TREASURER'S OFFICE

Salaries:

Treasurer	\$ 1,800.00	\$ 1,800.00
Deputy Treasurer	2,520.00	2,520.00
Assistant Deputy	1,800.00	1,800.00
Bookkeeper	1,680.00	1,680.00
Stenographer and Assistant Bookkeeper....	1,500.00	1,500.00
Treasurer's Bond	3,000.00	3,000.00
Expense Allowance	1,200.00	1,200.00
Purchase of Bookkeeping Machine	500.00	
Advertising Bond Sales, Stationery, Office Supplies, Incidentals and Traveling Expenses..	1,310.00	1,310.00
Collection on Bond Coupons	400.00	400.00
Tax Anticipation Warrants	560.00	
Administration of Cigarette Tax	2,500.00	2,500.00
	<u>\$ 18,770.00</u>	<u>\$ 17,950.00</u>

Section 29.

TAX COMMISSION

Salaries:

Commissioners	\$ 9,250.00	\$ 9,250.00
Secretary	2,000.00	2,000.00
Chief Clerk, Inheritance Tax Department...	1,500.00	1,500.00
Stenographer	1,310.00	1,310.00
Stenographer	1,200.00	1,200.00
Office Supplies	1,000.00	1,000.00
Communication and Transportation	2,680.00	2,680.00
Storage—Vehicles	60.00	60.00
Printing, Binding and Advertising	1,525.00	1,525.00
Repair of Equipment	250.00	250.00
Dues	10.00	10.00
Furniture and Fixtures	500.00	500.00
Books, Maps, Photos and Specimens	400.00	400.00
Temporary Salaries and Wages	1,100.00	1,100.00
Other Compensation	500.00	500.00
	<u>\$ 23,285.00</u>	<u>\$ 23,285.00</u>

Section 30.

BOARD OF AGRICULTURE

Salary of Secretary	\$ 2,500.00	\$ 2,500.00
Per Diem, Mileage, Expense of Members	2,500.00	2,500.00
Custody, Care of Grounds	3,000.00	3,000.00
Clerk Hire and Stationery	2,400.00	2,400.00
Policing Fair Grounds	3,250.00	3,250.00
Premiums	10,000.00	10,000.00
	<u>\$ 23,650.00</u>	<u>\$ 23,650.00</u>

Section 31.

BOARD OF HEALTH

Salary, Superintendent	\$ 3,200.00	\$ 3,200.00
Administration, Vital Statistics, Sanitary Engineering, Child Hygiene	17,600.00	17,600.00
Education and Publicity	5,500.00	5,500.00
Medical Licensure	1,000.00	1,000.00
Records and Accounts	3,000.00	3,000.00
Biological Products	2,500.00	2,500.00
General Maintenance	4,000.00	4,000.00
Preventable Diseases	4,000.00	4,000.00
	<u>\$ 40,800.00</u>	<u>\$ 40,800.00</u>

Section 32.

BOARD OF CHARITIES AND CORRECTIONS

Salaries	\$ 7,500.00	\$ 7,500.00
Expense, Secretary and Members	4,000.00	4,000.00
Salary and Expense of Parole Officer	4,000.00	4,000.00
	<u>\$ 15,500.00</u>	<u>\$ 15,500.00</u>

BOARD OF REGENTS

Section 33.		
Salary, Regents	\$ 6,000.00	\$ 6,000.00
Expense, Members and Secretary	3,000.00	3,000.00
	<u>\$ 9,000.00</u>	<u>\$ 9,000.00</u>

Section 34.

SOLDIERS' HOME BOARD

Per Diem and Expense of Members	\$ 1,800.00	\$ 1,800.00
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STATE NURSES' EXAMINING BOARD

Section 35.		
Expense	\$ 1,000.00	for biennium

Section 36.

WOMEN'S BOARD INVESTIGATION

Per Diem and Expense	\$ 3,600.00	\$ 3,600.00
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Section 37.

COLLEGE OF AGRICULTURE AND MECHANIC ARTS COLLEGE
PROPER—INSTRUCTION

Salaries:		
For Administration	\$ 22,500	\$ 22,500
For Faculty	95,000	95,000
For Employees	32,500	32,500
Total for Salaries.....		\$150,000 \$150,000

MAINTENANCE

(a) Fuel, Light, Water, Telephone, Rent, Gasoline, Oil..	\$ 36,000	\$ 36,000
(b) Laboratory Accessories and Supplies and Feeding Stuff.	56,500	56,500
(c) Janitor Services and Supplies, Grounds	20,000	20,000
(d) Library	10,000	10,000
(e) Postage, Freight, Express and Telegraph	3,500	3,500
Total for Maintenance..		\$126,000 \$126,000

Engineering Equipment	2,500	2,500		
General Repairs	12,000	12,000		
Poultry Department	3,000	3,000		
School of Pharmacy	5,000	5,000		
Summer School	4,000	4,000		
Vocational Rehabilitation Sol- diers	7,500	7,500		
Total			\$ 34,000	\$ 34,000
Total for College Proper			\$310,000	\$310,000

EXPERIMENTATION AND STATE WIDE SERVICE

Dairy Commissioner	\$ 2,000	\$ 2,000		
Sub-stations:				
Highmore	3,230	3,230		
Eureka	3,230	3,230		
Cottonwood	3,230	3,230		
Vivian	3,230	3,230		
Seed Testing	1,000	1,000		
Popular Bulletins	1,500	1,500		
Horticultural Society	1,000	1,000		
Corn and Grain Association ..	1,500	1,500		
Poultry Associations	2,000	2,000		
Animal Health Laboratory	8,000	8,000		
State Entomologist	5,000	5,000		
Dairymen's and Buttermakers' Association	800	800		
Soil Survey	10,000	10,000		
Potato Experimentation	1,000	1,000		
Horticultural Experimentation..	10,000	10,000		
Livestock Experimentation	10,000	10,000		
Total for Experimenta- tion and State Wide Service			\$ 66,720	\$ 66,720

EXTENSION DIVISION

Agricultural and Home Eco- nomics Extension	\$ 58,500	\$ 58,500		
County Supervision, 52 Counties	40,300	88,400		
Total for Extension			98,800	146,900
Grand Total			\$475,520	\$523,620

Section 38.

UNIVERSITY OF SOUTH DAKOTA—UNIVERSITY PROPER

Salaries:				
For Administration	\$ 22,000	\$ 22,000		
For Faculty	190,000	190,000		
For Employees	5,450	5,450		
Total for Salaries			\$217,450	\$217,450

MAINTENANCE

(a) Fuel, Light, Water, Gas, Gasoline and Oil	\$ 35,000	\$ 35,000		
(b) Services Engineers, Firemen and Power Plant Laborers..	12,500	12,500		
(c) Janitors services, Supplies, Grounds, Night Watchman.	20,000	20,000		

(d) Laboratory Supplies, Equipment and Accessories	35,000	35,000		
(e) Postage, Freight, Express, Drayage, Telegraph and Telephone	4,000	4,000		
(f) Printing and Office Supplies as Ordered Through Printing Commission	3,350	3,350		
Total for Maintenance.			\$109,850	\$109,850
Library	10,000	10,000		
General Repairs	25,000	25,000		
Summer School	6,000	6,000		
Extension Work	3,500	3,500		
College of Engineering Equipment	6,000	6,000		
Total for University Proper			\$377,800	\$377,800

STATE WIDE SERVICE

State Geological and Natural History Survey	\$ 10,000	\$ 10,000		
State Health Laboratory	10,000	10,000		
Total for State Wide Service			\$ 20,000	\$ 20,000
Grand Total			\$397,800	\$397,800

Section 39.

STATE SCHOOL OF MINES

Salaries:				
For Administration	\$ 11,400	\$ 12,250		
For Instruction	53,470	57,470		
For Employees	10,130	10,280		
Total for Salaries			\$ 75,000	\$ 80,000

MAINTENANCE

(a) Fuel, Light, Power, Water, Gas, Oil	\$ 6,800	\$ 6,800		
(b) Laboratory Supplies, Janitor Services and Supplies, Furniture, Equipment, Repairs and Replacements, Plumbing, General Materials and Labor	8,600	8,600		
(c) Catalog, Special Publications, Printing, Engineering, Office Supplies and Departmental Records	2,200	2,200		
(d) Freight, Drayage, Express, Postage, Telephone, Telegraph and Traveling	2,400	2,400		
Total for Maintenance.			\$ 20,000	\$ 20,000
Library		1,500		1,500
Field Exploration		2,000		2,000
Repairs and Improvements		4,000		2,500
Mining Experiment Station		4,000		4,000
Campus Improvement		2,500		2,500
Grand Total			\$109,000	\$112,500

Section 40.

NORTHERN NORMAL AND INDUSTRIAL SCHOOL

Salaries:

For Administration	\$ 20,600	\$ 20,600		
For Faculty	75,600	75,600		
For employees	8,400	8,400		
Total for Salaries			\$104,600	\$104,600

MAINTENANCE

(a) Fuel, Light, Gas, Water and Oil	\$ 20,440	\$ 20,440		
(b) Laboratory Accessories and Supplies, Furniture and Other Permanent Equipment, Chemicals and Other Supplies	8,000	8,000		
(c) Janitors	10,000	10,000		
Janitor Supplies	1,600	1,600		
Grounds, Labor, Trees, Shrubs, etc.	1,100	1,100		
(d) Postage, Freight, Express, Telegraph and Telephone...	2,450	2,450		
(e) Heating Plant Equipment, Repairs and Special Labor for These Repairs	9,310	9,310		
(f) Dormitories, Furnishings, Repairs, Furniture, etc.	3,400	3,400		
(g) Office Supplies, Stationery, Printing, Bulletins, etc., for All Departments	4,700	4,700		
Total for Maintenance..			\$ 65,000	\$ 65,000
Summer School			7,500	7,500
Extension			3,000	3,000
Library			3,000	3,000

Grand Total			\$179,100	\$179,100
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Section 41.

EASTERN STATE NORMAL SCHOOL

Salaries:

Administration	\$ 10,000	\$ 10,000		
Faculty	70,000	75,000		
Employees	2,600	3,200		
Total for Salaries			\$ 82,600	\$ 88,200

MAINTENANCE

(a) Fuel, Light, Water, Gas, Oil..	\$ 12,500	\$ 12,500		
(b) Laboratory, Accessories, Supplies	3,500	3,500		
(c) Janitorial and Grounds	2,000	2,000		
(d) Postage, Freight, Supplies, etc.	5,000	5,000		
Total for Maintenance..			\$ 23,000	\$ 23,000
Extension			2,500	2,500
Weather Stripping			500	500
Library			1,500	1,500
Grand Total			\$109,600	\$115,700

Section 42.

SPEARFISH NORMAL SCHOOL

Salaries:

Administration	\$ 10,000	\$ 11,000		
Faculty	52,000	55,000		
Employees	10,000	11,000		
Total for Salaries			\$ 72,000	\$ 77,000

MAINTENANCE

(a) Fuel, Light, Water, Gas, Oil, etc.	\$ 7,000	\$ 7,000		
(b) Laboratory, Accessories, and Supplies	6,000	6,000		
(c) Janitor Service, Supplies, Grounds	5,000	5,000		
(d) Postage, Freight, Express, Telegraph, etc.	6,000	6,000		
Total for Maintenance..			\$ 24,000	\$ 24,000
Summer School			7,500	7,500
Library			500	500

Grand Total

\$104,000 \$109,000

Section 43.

SOUTHERN STATE NORMAL

Salaries:

Administration	\$ 9,000	\$ 9,000		
Faculty	35,500	35,500		
Employees	5,500	5,500		
Total for Salaries			\$ 50,000	\$ 50,000

MAINTENANCE

(a) Fuel, Light, Water, Phone, Rent, Gas and Oil	\$ 8,500	\$ 8,500		
(b) Postage, Freight, Express Telegraph and Traveling Ex- penses	1,400	1,400		
(c) Janitor Services and Sup- plies, Grounds, Office Sup- plies	2,000	2,000		
(d) Lumber for Manual Train- ing and Repairs	900	900		
(e) Printing, Binding, Advertis- ing and Laboratory Acces- sories	1,600	1,600		
(f) Rent of Dormitory Annex..	600	600		
Total for Maintenance..			\$ 15,000	\$ 15,000
Summer School			4,000	4,000
Extension			1,500	1,500
Library			1,000	1,000

Grand Total

\$ 71,500 \$ 71,500

Section 44.

CUSTER SANATORIUM

Salaries	\$ 36,000.00	\$ 46,000.00		
Maintenance	56,000.00	82,000.00		
Improvements and Repairs	10,000.00	10,000.00		
	\$102,000.00	\$138,000.00		

Section 45.

HOSPITAL FOR INSANE

Salaries	\$120,400.00	\$121,660.00
Maintenance	219,600.00	223,340.00
General Repairs	15,000.00	15,000.00
	<u>\$355,000.00</u>	<u>\$360,000.00</u>

Section 46.

STATE PENITENTIARY

Salaries	\$ 48,439.92	\$ 48,439.92
Maintenance	111,560.08	111,560.08
Improvements and Repairs	12,000.00	12,000.00
	<u>\$172,000.00</u>	<u>\$172,000.00</u>

Section 47.

SOUTH DAKOTA SCHOOL FOR BLIND

Salaries	\$ 12,000.00	\$ 12,000.00
Maintenance	\$ 12,000.00	\$ 12,000.00
	<u>\$ 24,000.00</u>	<u>\$ 24,000.00</u>

Section 48.

SCHOOL FOR DEAF

Salaries	\$ 31,400.00	\$ 31,860.00
Maintenance	13,600.00	13,140.00
Improvements and Repairs	3,000.00	3,000.00
	<u>\$ 48,000.00</u>	<u>\$ 48,000.00</u>

Section 49.

SCHOOL AND HOME FOR THE FEEBLE MINDED

Salaries and Maintenance	\$130,000.00	\$135,000.00
Improvements and Repairs	15,000.00	15,000.00
	<u>\$145,000.00</u>	<u>\$150,000.00</u>

Section 50.

STATE TRAINING SCHOOL

Salaries	\$ 15,000.00	\$ 15,000.00
Maintenance	25,000.00	25,000.00
Improvements and Repairs	3,000.00	3,000.00
Library	500.00	500.00
	<u>\$ 43,500.00</u>	<u>\$ 43,500.00</u>

Section 51.

SOLDIERS' HOME

Salaries and Maintenance	\$126,050.00	\$126,050.00
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Section 52. All amounts herein appropriated shall be used for the specific purpose herein mentioned and no other. Salaries of State officers shall be payable in equal monthly installments. Salaries of employees, where the amount appropriated is for a year, shall be paid in monthly installments, and no greater sum than one-twelfth of such amount shall be paid for any one month except with the written approval of the Governor. The State Auditor shall issue warrants on itemized and approved vouchers filed in his office, but no warrant shall be issued to or for any person, department or institution or any fund for any department in excess of the appropriation specially made herein, except as provided by

the provisions of this Act or other Acts, or may hereafter be provided by law.

Section 53. That each of the appropriations herein made, and in the amounts so made, are hereby found to be, declared to be and are necessary for the immediate support of the state government and its existing public institutions.

Approved March 12, 1923.

CHAPTER 17.

(S. B. 321.)

FOR DEFICIENCY, DEPARTMENT OF AGRICULTURE

AN ACT Entitled, An Act Authorizing the Payment of Deficiency Claim of F. O. Simonson, Terminal Representative, Department of Agriculture.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That the deficiency claim of F. O. Simonson, Terminal Representative of the Department of Agriculture, in the sum of One Hundred Seventeen and Seventy One-hundredths Dollars (\$117.70), for expenses incurred during the fiscal year ending June 30, 1921, in connection with services rendered said department, is hereby made payable out of funds available during the fiscal year ending June 30th, 1923.

The State Auditor shall issue warrants on the State Treasurer on duly itemized vouchers therefor, and the State Treasurer is hereby authorized to pay the same.

Section 2. Whereas, this act is necessary for the immediate support of the State government and its existing public institutions, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the Governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the Secretary of State with his objections, within the time prescribed by the Constitution, has become a law without his approval.

C. E. COYNE, Secretary of State.

CHAPTER 18.

(H. B. 63)

FOR DEFICIENCY, ADJUTANT GENERAL'S OFFICE

AN ACT Entitled, An Act Appropriating Money for Deficiency in the Funds of the Adjutant General's Office for Buildings Used for Armory Purposes at Mitchell, Vermillion and Rapid City, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of the money in the State Treasury, not otherwise appropriated, the sum of Two Hundred and Sixty-four and 35-100th (\$264.35) Dollars for the payment of the following items:

Live Stock Association, Mitchell, South Dakota, rent of stables for December, 1921, and up to January 8th, 1922, inclusive, at \$35.00 per month	\$ 44.35
Live Stock Association, Mitchell South Dakota, rent of stable for June, 1922	\$ 35.00
Independent School District of the City of Vermillion, rent of High School for Armory purposes for January, February and March, 1922	\$ 35.00
M. E. Church, Rapid City, Armory rent for May and June, 1922, at \$75.00 per month	\$150.00
Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.	
Approved February 13, 1923.	

CHAPTER 19.

(H. B. 313.)

FOR OFFICE, ADJUTANT GENERAL

AN ACT Entitled, An Act Appropriating Money to Provide a Permanent Case for Preserving, Safely Keeping and Displaying Regimental Standards, Colors and Flags Owned by the State or in the Custody of the Adjutant General.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated from any moneys in the state treasury not otherwise appropriated the sum of Five Hundred Dollars for the purpose of providing a permanent case, at the State Capitol, to preserve, safely keep and display all regimental standards, colors and flags now the property of this State or which may be in the custody of the Adjutant General under the provisions of Section 10643 of the Revised Code of 1919.

Section 2. This money, or so much thereof as may be necessary for the purposes herein, shall be expended under the direction of the Adjutant General.

Approved March 12, 1923.

CHAPTER 20.

(H. B. 95))

FOR RELIEF OF J. C. BABCOCK.

AN ACT Entitled, An Act Appropriating Money to Reimburse J. C. Babcock for Funds Expended in Medical Treatment and Hospital Care and to Compensate Him for Loss of Property and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of \$157.40 to J. C.

Babcock, to reimburse the said Babcock for funds expended for medical treatment and hospital care and to compensate said J. C. Babcock for loss of property; all of which items are the result of a gunshot wound received by said J. C. Babcock while he was Sheriff of Jones County, on August 25, 1922, while he was attempting to arrest and apprehend convicts escaped from the State Penitentiary, and while said Babcock was engaged in the performance of an official and public duty.

Section 2. Whereas this Act is necessary for the immediate support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in force and effect from and after its passage and approval.

Approved February 17, 1923.

CHAPTER 21.

(H. B. 173.)

FOR CARE OF BLIND CHILDREN

AN ACT Entitled, An Act Appropriating Money for the Care of Blind Children Under Six Years of Age.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of One Thousand (\$1,000.00) Dollars, for the purpose of carrying out the provisions of law authorizing the Board of Charities and Corrections to provide for the care of blind children under six years of age in institutions suitably equipped to care for such children.

Approved March 12, 1923.

CHAPTER 22.

(S. B. 82.)

REIMBURSING CIRCUIT JUDGES FOR EXPENSES

AN ACT Entitled, An Act to Reimburse Circuit Judges for Expenses Incurred While Holding Court in Counties Outside of Their Respective Circuits,

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of the general fund of the state not otherwise appropriated, the sum of two hundred ninety-six dollars and 58/100 (\$296.58) to reimburse certain circuit judges for expenses incurred and paid by them while holding court in counties outside their respective circuits as follows:

William N. Skinner	\$ 90.46
Robert B. Tripp	23.60
John F. Hughes	74.40
Frank Anderson	48.00
Raymond L. Dillman	60.12
Total	\$296.58

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved February 10, 1923.

CHAPTER 23.

(H. B. 296.)

REIMBURSING CIRCUIT JUDGES FOR EXPENSES

AN ACT Entitled, An Act to Reimburse Circuit Judges for Expenses Incurred While Holding Court in Counties Outside of Their Respective Circuits.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of the general fund of the state not otherwise appropriated the sum of Ninety-three and 32-100th (\$93.32) Dollars, to reimburse certain circuit judges for expenses incurred and paid by them while holding court in counties outside their respective circuits as follows:

Frank B. Smith	\$19.32
James McNenney	74.00

Total	\$93.32
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Section 2. Whereas, this act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 24.

(S. B. 133)

FOR CONVEYANCE OF CONVICTS TO PENITENTIARY

AN ACT Entitled, An Act Appropriating Money for the Conveyance of Convicts to the Penitentiary.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Fifteen Thousand (\$15,000.00) Dollars, or so much thereof as may be necessary, to pay for the conveyance of convicts to the State Penitentiary. The funds hereby appropriated shall be available for the purpose authorized by this Act until June 30, 1925.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act is declared to be in force and effect from and after its passage and approval.

Approved February 14, 1923.

CHAPTER 25.

(H. B. 276.)

FOR EASTERN S. D. STATE NORMAL SCHOOL

AN ACT Entitled, An Act Appropriating Money for Improvements, Equipments and Repairs at the Eastern South Dakota State Normal School, Madison, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated the sum of Twenty-seven Thousand Nine Hundred (\$27,900) Dollars for improvements, equipments and repairs at the Eastern South Dakota State Normal School, Madison, South Dakota, to be expended by the Regents of Education for the uses and purposes following, to-wit:

Laundry Equipment, available during the fiscal year ending June 30th, 1924	\$1,000.00
New Dining Hall Equipment, available during the fiscal year ending June 30, 1925	1,000.00
Equipment East Hall, available during the fiscal year ending June 30th, 1924	1,000.00
Equipment Heating Plant, available during the fiscal year ending June 30th, 1925	1,800.00
Fire Escapes and Wire Glass, available during the fiscal year ending June 30th, 1924	2,500.00
Grading Walks, Curbing, available during the fiscal year ending June 30th, 1924	1,000.00
Paving and Grading, available during the fiscal year ending June 30th, 1924	4,500.00
Equipment, \$2,500 available during the fiscal year ending June 30th, 1924, and \$2,500 available during the fiscal year ending June 30th, 1925	5,000.00
Repairs, \$2,500 available during the fiscal year ending June 30, 1924, \$2,500 available during the fiscal year ending June 30th, 1925	5,000.00
Covering and Repairing Floors, available during the fiscal year ending June 30th, 1924	3,000.00
Outside Painting and Repairs: \$600 available during the fiscal year ending June 30th, 1924; \$1,500 available during the fiscal year ending June 30th, 1925	2,100.00

Section 2. That moneys hereby appropriated shall not revert until the improvements and equipments shall have been fully completed, and in any event not until June 30th, 1925.

Approved March 12, 1923.

CHAPTER 26.

(S. B. 167)

FOR DELINQUENT FIRE DEPARTMENTS

AN ACT Entitled, An Act to Appropriate Money to Pay Certain Cities and Towns Their Apportionment of the Insurance Tax For Fire Departments for Which They Failed to Report in 1916, 1921 and 1922, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of the general fund of the state not otherwise appropriated, the sum of One Thousand, Nine Hundred and Eighteen Dollars and Seventy-three Cents (\$1,918.73) to pay the following named cities and towns the portion of the insurance tax for fire departments which they failed to receive for the years 1916, 1921 and 1922, by reason of the failure of their respective city clerks or auditors to report as provided in Section 9306 of the Revised Code of 1919; an amount for the benefit of each city or town as follows:

Andover	Year 1922.....	\$ 115.09
Canistota	Year 1922.....	179.05
Custer	Year 1922.....	113.47
Lake Andes	Years 1921 and 1922.....	438.04
Langford	Year 1916.....	61.10
Montrose	Year 1921.....	108.53
Platte	Years 1921 and 1922.....	615.10
Wessington Springs	Year 1921.....	288.35
Total.....		<u>\$1,918.73</u>

Section 2. That cities and towns named in the preceding section will become entitled to and may receive the respective amounts apportioned to them under the preceding section, upon the city auditor or clerk furnishing to the auditor of the state and to the commissioner of insurance on or before the 1st day of May, 1923, a certificate as required by Sections 9306 and 9308 of the Revised Code of 1919.

Section 3. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 27.

(S. B. 157.)

FOR ANNUAL FIREMEN'S TOURNAMENTS

AN ACT Entitled, An Act Appropriating Money for Expense of Annual Firemen's Tournaments.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Two Thousand Five Hundred Dollars (\$2,500.00) for the fiscal year ending June 30, 1924, and Two Thousand Five Hundred Dollars (\$2,500.00) for the fiscal year ending June 30, 1925, to be paid into the treasury of the State Firemen's Association of this State for the purpose of defraying expenses of the annual tournaments of the State Firemen's Association.

Approved February 15, 1923.

CHAPTER 28.

(H. B. 125)

FOR HELEN H. GAMBLE

AN ACT Entitled, An Act to appropriate Money for Helen H. Gamble for Salary for the Month of June, 1921.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of Eighty-three and 33-100th (\$.83.33) Dollars to pay salary of Helen H. Gamble, Secretary of the Board of Regents, for the month of June, 1921.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved February 27, 1923.

CHAPTER 29.

(H. B. 145.)

FOR SOUTH DAKOTA DEPARTMENT G. A. R.

AN ACT Entitled, An Act Appropriating Money for the Assistance, Clerical Work, Books, Postage and Stationery Necessary for the Purpose of Keeping a Permanent Record of the Proceedings of the South Dakota Department of the Grand Army of the Republic.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the treasury not otherwise appropriated the sum of Two Thousand Dollars;

One Thousand Dollars (\$1,000.00) of which shall be available in the fiscal year 1923 and One Thousand Dollars (\$1,000.00) in the fiscal year 1924, to be expended under the direction of the State Board of Managers of the Soldiers' Home for the purpose of providing assistance, clerical work, books, postage and stationery necessary for the purpose of keeping a permanent record of the proceedings of the South Dakota Department of the Grand Army of the Republic.

Approved March 12, 1923.

CHAPTER 30.

(S. B. 156)

FOR GREAT LAKES-ST. LAWRENCE TIDEWATER ASSOCIATION

AN ACT Entitled, An Act Appropriating Money to the Great Lakes-St. Lawrence Tidewater Association for the Purpose of Furthering the Connection Between the Atlantic Ocean and the Great Lakes.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Four Thousand Dollars (\$4,000.00), or so much thereof as may be necessary, for the purpose of promoting the connection by water between the Atlantic Ocean and Great Lakes, to be available during the fiscal years 1923-24 and 1924-25, to be expended under the direction of the Governor.

Section 2. The State Auditor is hereby authorized and directed to issue warrants upon the above appropriation upon itemized vouchers approved by the Governor, and the State Treasurer is hereby authorized to pay the same.

Approved February 15, 1923.

CHAPTER 31.

(H. B. 290.)

DEFICIENCY, GUARANTY FUND COMMISSION

AN ACT Entitled, An Act Authorizing the Payment of Deficiency Claims of the Guaranty Fund Commission Out of Moneys Appropriated for the Fiscal Year Ending June 30th, 1923.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. Claims incurred by members of the Guaranty Fund Commission for traveling and per diem during the fiscal year ending June 30th, 1921, which were not paid for the reason that no money was available for the payment thereof, amounting to One Hundred Seventy-seven and 85-100 (\$177.85) Dollars, are hereby made payable out of funds appropriated for expenses of members of the Guaranty Fund Commission by Section 5 of Chapter 21 of the Session Laws of 1921 for the fiscal year ending June 30th, 1923. The State Auditor shall issue warrants

therefor on the State Treasurer, and the State Treasurer is hereby authorized to pay same.

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing institutions, an emergency is hereby declared, and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 32.

(H. B. 330.)

FOR JAMES AND BIG SIOUX VALLEY DRAINAGE COMMISSION

AN ACT Entitled, An Act to appropriate Money for the reproduction of Maps, Etc., by the James and Big Sioux Valley Drainage Commission.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of One Thousand One Hundred Dollars, or so much thereof as may be necessary for the use of the James and Big Sioux Valley Drainage Commission for the reproduction of maps, profiles and other expenses of the commission in securing such reproduction, to be paid out upon the warrants of the State Auditor, issued upon vouchers of the said Drainage Commission issued by its chairman and secretary.

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing institutions, an emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 33.

(S. B. 22)

FOR LEGISLATIVE EXPENSES, 1923

AN ACT Entitled, An Act Appropriating Money for the Per Diem and Mileage and Salary of the President and Members of the Senate and House of Representatives of the Eighteenth Legislature of the State of South Dakota, and for the Secretary of the Senate and Chief Clerk of the House of Representatives and for the Per Diem of the Officers and Sub-employees of Both Branches of the Legislature, and for Rental of Typewriters for the Eighteenth Session, Legislative Supplies, and for Expenses Incurring During the Legislative Session for Extra Janitors, Engineers, Firemen, Elevator Operators, Etc., also for Additional Pay to Regular Force and for Supplies and Other Incidentals for the Eighteenth Session, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of the General Fund of the State the following sum for the purpose of paying the per diem

and mileage and salaries of the president and members of the Senate and House of Representatives of the Eighteenth Legislature of the State of South Dakota, and for the Secretary of the Senate and the Chief Clerk of the House of Representatives, and for the per diem of the officers and sub-employees of both branches of the Legislature and for rental of typewriters and legislative supplies, \$72,500.00; and for expenses incurring during the Legislative Session for extra janitors, engineers, firemen, elevator operators, etc., also for additional pay to regular force, and for supplies and other incidentals for the Eighteenth Session of the Legislature, \$7,500.00.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing institutions an emergency is hereby declared to exist, and this Act shall be in force and effect from and after its passage and approval.

Approved January 17, 1923.

CHAPTER 34.

(S. B. 212.)

FOR LEGISLATIVE EXPENSE, 1923

AN ACT Entitled, An Act Appropriating Money for Per Diem and Mileage and Salary of the President and Members of the Senate and House of Representatives of the Eighteenth Legislature of the State of South Dakota, and for the Secretary of the Senate and Chief Clerk of the House of Representatives and for the Per Diem of the Officers and Sub-employees of both Branches of the Legislature, For Expense of Investigation of State Departments and Institutions, and for Rental of Typewriters for the Eighteenth Session, Legislative Supplies, and for Expenses Incurred During the Legislative Session for Extra Janitors, Engineers, Firemen, Elevator Operators, etc., Also for Additional Pay to the Regular Force, Also for Printing, Extra House and Senate Journals, and for Supplies and other Incidentals for the Eighteenth Session.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of the General Fund of the State, the following sum for the purpose of paying the per diem and mileage and salaries of the President and Members of the Senate and House of Representatives of the Eighteenth Legislature of the State of South Dakota, and for the Secretary of the Senate and the Chief Clerk of the House of Representatives, and for the per diem of the officers and sub-employees of both branches of the Legislature, and for rental of typewriters and legislative supplies, and for expenses incurred during the Legislative Session, for the expense of investigation of State Departements and Institutions, for extra journals for House and Senate, for extra janitors, engineers, firemen, elevator operators, etc., also for additional pay to regular force, and for supplies and other incidentals for the Eighteenth Session of the Legislature, five thousand dollars (\$5,000.00), or so much thereof as may be necessary.

Section 2. Whereas, this act is necessary for the immediate support of the State Government and its existing public institutions an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 35.

(S. B. 155)

FOR MINNESOTA FOR FUNDS ADVANCED

AN ACT Entitled, An Act Appropriating Money to the State of Minnesota to Reimburse Said State for Funds Advanced for the Use of the Northwest Governor's Coal Commission at Washington, D. C., and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Four Hundred Sixty-seven Dollars and Twenty Cents (\$467.20) to the State of Minnesota, said sum being for the purpose of reimbursing the State of Minnesota for funds advanced in payment of the proportionate share due from South Dakota covering the expense incurred by the Northwest Governor's Coal Commission at Washington, D. C., from August to December, 1922.

Section 2. Whereas, this Act is necessary for the preservation of the State and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved February 15, 1923.

CHAPTER 36.

(H. B. 75)

FOR FIVE MISSOURI RIVER BRIDGES

AN ACT Entitled, An Act Appropriating Moneys Heretofore or Hereafter Derived From Levies Imposed Under Chapter 128 of the Session Laws of 1921 for the Construction of Five Bridges Across the Missouri River, and Providing that the Order, Type and Manner of Construction shall be Hereafter Designated, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. All funds derived from levies imposed or which will hereafter be imposed upon the taxable properties of the State under the provisions of Chapter 128 of the Session Laws of 1921, which are now paid or which shall hereafter be paid into the Bridge Fund, are hereby appropriated and shall be used as same becomes available for the construction of five bridges across the Missouri River, together with such money as may be available from Federal Aid Highway Funds, at the following designated points: Mobridge, Forest City, Pierre, Chamberlain, and at a feasible point to be selected between Gregory County and Charles Mix County by the State Bridge Engineer.

Section 2. The order in which the bridges shall be constructed, type of bridges and the manner of construction shall hereafter be determined by the Legislature.

Section 3. Whereas, this Act is necessary for the immediate preservation of the public peace and safety, and for the support of

the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in force and effect from and after its passage and approval.

Approved February 15, 1923.

CHAPTER 37.

(H. B. 229.)

FOR RELIEF OF SAMUEL B. NANCOLAS

AN ACT Entitled, An Act Appropriating Money for the Relief of Samuel B. Nancolas.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of Two Thousand (\$2,000.00) Dollars for the relief of Samuel B. Nancolas, and to compensate him for injuries received while in the militia service of the State of South Dakota. The State Auditor shall issue a warrant upon the State Treasurer for the above amount to the said Samuel B. Nancolas, upon his presenting a voucher thereof and a receipt for said warrant.

Section 2. Whereas, this Act is necessary for the support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in force and effect after its passage and approval.

Approved March 12, 1923.

CHAPTER 38.

(H. B. 64)

FOR SMOKE STACK, NORTHERN NORMAL AND INDUSTRIAL SCHOOL

AN ACT Entitled, An Act Appropriating Money for Straightening and Rebuilding the Smoke Stack at the Northern Normal and Industrial School at Aberdeen, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Two Thousand Five Hundred (\$2,500.00) Dollars, or so much thereof as may be necessary, to be expended by the State Board of Regents of Education, for straightening and rebuilding the smoke stack at the Northern Normal and Industrial School at Aberdeen, South Dakota.

Section 2. Whereas this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act is declared to be in force and effect from and after its passage and approval.

Approved February 10, 1923.

CHAPTER 39.

(S. B. 130)

FOR PAVING ASSESSMENT, NORTHERN NORMAL

AN ACT Entitled, An Act to Appropriate Money for the Payment of the Assessment Levied Against the Property of the State, Used in Connection with the Northern Normal and Industrial School, for Paving and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of Four Thousand Two Hundred Fifty-two and Twenty-six One-hundredths (\$4,252.26) Dollars, or so much thereof as may be necessary, for the purpose of paying the assessments levied against the property of the State used in connection with the Northern Normal and Industrial School for pavements constructed by the City of Aberdeen South Dakota, to be expended by the Regents of Education.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved February 15, 1923.

CHAPTER 40.

(S. B. 280.)

FOR NORTHERN NORMAL

AN ACT Entitled, An Act Appropriating Money for Improvements, Equipment and Repairs at the Northern Normal and Industrial School, Aberdeen, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Thirty-eight Thousand Five Hundred and Fifty Dollars (\$38,550.00), or so much thereof as may be necessary, for improvements, equipment and repairs at the Northern Normal and Industrial School, Aberdeen, South Dakota, to be expended by the State Board of Regents, for the uses and purposes following, to-wit:

Improvements to Heating Plant proper, funds to be available during the fiscal year 1923-24	\$ 5,000.00
Repairs, Alterations and Improvements to the Distribution System of Steam Pipes, funds to be available during fiscal year 1923-24	15,000.00
Renovating Graham Hall, funds to be available during the fiscal year 1923-24	13,000.00
Re-tinting Lincoln Hall, funds to be available during the fiscal year 1924-25	2,800.00

Laundry Equipment, funds to be available during the fiscal year 1923-24	75C.00
Repair Roofs—Three Buildings, funds to be available during fiscal year 1923-24	2,000.00
Section 2. That moneys hereby appropriated shall not revert until the improvements, equipment and repairs shall have been fully completed, and in any event not until June 30, 1925.	
Approved March 12, 1923.	

CHAPTER 41.

(H. B. 89.)

FOR RELIEF, ANTON J. NOVRKAL

AN ACT Entitled, An Act Appropriating Money to Pay the Claim of Anton J. Novrkal Against the State of South Dakota, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Fifty Dollars (\$50.00) to pay the claim of Anton J. Novrkal for one horse destroyed by order of the Livestock Sanitary Board on account of being affected with glanders, June 15, 1921.

Section 2. Whereas, this act is necessary for the support of the State and its existing institutions, an emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved March 3, 1923.

CHAPTER 42.

(S. B. 223.)

FOR RELIEF OF B. L. OPSAL

AN ACT Entitled, An Act to Appropriate Money for the Relief of B. L. Opsal.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of Seven Thousand Dollars (\$7,000.00) for the relief of B. L. Opsal, and to compensate him for injuries received in the employ of the State while in the line of duty as assistant Secretary of the Senate at the Fifteenth legislative session.

Section 2. Whereas, this act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the Governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the Secretary of State with his objections, within the time prescribed by the Constitution, has become a law without his approval.

C. E. COYNE, Secretary of State.

CHAPTER 43.

(S. B. 279.)

FOR BURIAL, W. W. PALMER

AN ACT Entitled, An Act Authorizing the Payment of Burial Expenses of W. W. Palmer, a Deceased Civil War Veteran, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. The State Treasurer is hereby authorized to pay the sum of One Hundred Dollars (\$100.00) for burial expenses of W. W. Palmer, deceased Civil War Veteran of Clay County, out of the funds appropriated by Section 1 of Chapter 78 of the Session Laws of 1921. The State Auditor shall issue a warrant on the State Treasurer on duly itemized voucher therefor.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 2, 1923.

CHAPTER 44.

(H. B. 12)

FOR RELIEF OF M. L. PARISH.

AN ACT Entitled, An Act Appropriating Money to M. L. Parish to Reimburse and Compensate Him for Funds Expended in Medical Treatment, Hospital Care and Incidental Expenses, and to Compensate Him for Loss of Time and Property, and Declaring an Emergency to Exist.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Eleven Hundred Ninety-five Dollars and Ninety-five Cents (\$1,195.95), to M. L. Parish:

Said moneys being hereby appropriated to reimburse said M. L. Parish for funds expended in traveling expense, medical treatment and hospital care, and to compensate said M. L. Parish for loss of time and property, all of which items are a result of a gun-shot wound received by said M. L. Parish while state's attorney of Jones County, on August 25, 1922, while he was assisting in an effort to effect the arrest of convicts escaping from the State Penitentiary, and while said Parish was engaged in the performance of an official and public duty.

Section 2. Whereas this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act is declared to be in force and effect from and after its passage.

Approved February 17, 1923.

CHAPTER 45.

(S. B. 132)

FOR PRIMARY LAW

AN ACT Entitled, An Act Appropriating Money to Pay the Operating Expense of the Richards Primary Law.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Fourteen Thousand (\$14,000.00) Dollars, or so much thereof as may be necessary, to pay the operating expense of the Richards Primary Law during the fiscal years 1923-24 and 1924-25.

Said funds shall be paid on warrants drawn by the State Auditor upon the State Treasurer upon vouchers approved by the Secretary of State.

Approved February 15, 1923.

CHAPTER 46.

(S. B. 199)

FOR PUBLIC PRINTING, 1923-4

AN ACT Entitled, An Act to Appropriate Money for Printing and Binding Reports of State Officers and Boards for the Fiscal Years of 1923 and 1924, Printing and Binding Daily and Permanent House and Senate Journals, House and Senate Bills for the Eighteenth Legislative Session of the State of South Dakota, Printing and Binding Governor's Message, Legislative Manuals, Hand Books, Session Laws, Report of State Budget Board, Advertising for Bids for Public Printing and Such Other Printing and Binding as May be Ordered by the Eighteenth Legislative Session of the State of South Dakota and Expenses of Distributing Such Documents, Supreme Court Reports, Codes, Legislative Manuals, Hand Books, Journals and Session Laws and for Such Other Publications Ordered by the Eighteenth Session of the Legislature of the State of South Dakota, to be Distributed, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of the General Fund of the State of South Dakota, the sum of Forty Thousand (\$40,000.00) Dollars, or so much thereof as may be necessary, for the purpose of printing and binding the reports of the State Officers and Boards for the fiscal years ending June 30, 1923, and June 30, 1924, printing and binding daily and permanent House and Senate Journals, House and Senate Bills of the Eighteenth Legislative Session of the State of South Dakota, printing and binding the Governor's Message, Legislative Manuals, Hand Books, Session Laws, Report of State Budget Board, advertising for bids for public printing and distributing of same and binding as may be ordered by the Eighteenth Legislative Session of the State of South Dakota.

Section 2. Whereas, this Act is necessary for the support of the State Government and its existing institutions, an emergency is hereby

declared to exist, and this Act shall be in force and effect from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 47.

(H. B. 37)

FOR RELIEF OF GOTTLIEB RITTBERGER ET AL.

AN ACT Entitled, An Act Appropriating Money for the Relief of Gottlieb Rittberger, John H. Lenning, William Satra, J. H. Wall and Charles F. Norman and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any money in the Treasury not otherwise appropriated, the sum of Six Hundred and Four Dollars and Fifty Cents to be paid upon vouchers to be approved by the Attorney General as follows, to-wit: To Gottlieb Rittberger, the sum of Ninety-six Dollars; to John H. Lenning, the sum of One Hundred and Seventy-five Dollars and Twenty-five Cents; to William Satra, the sum of Ninety-six Dollars and Twenty-five Cents; to J. H. Wall, the sum of One Hundred and Fifty-seven Dollars, and to Charles F. Norman, the sum of Eighty Dollars for damages sustained by them respectively from fire caused by coals dropping from a moving steam shovel operated by the Highway Department.

Section 2. Whereas, this Act is necessary for the support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved February 27, 1923.

CHAPTER 48.

(H. B. 94)

FOR RELIEF OF J. A. ROBERTSON.

AN ACT Entitled, An Act Appropriating Money to J. A. Robertson to Reimburse and Compensate Him for Funds Expended in Medical Treatment, Hospital Care and Incidental Expenses, and to Compensate Him for Loss of Time and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$268.40, to J. A. Robertson; said moneys being hereby appropriated to reimburse said J. A. Robertson for funds expended in traveling expenses, medical treatment and hospital care, and to compensate said J. A. Robertson for loss of time, all of which items are a result of a gun shot wound received by J. A. Robertson while acting as Special Deputy Sheriff of

Jones County on August 25, 1922, while he was assisting in an effort to effect the arrest of convicts escaping from the State Penitentiary, and while engaged in the performance of an official and public duty.

Section 2. Whereas this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act is declared to be in force and effect from and after its passage and approval.

Approved February 17, 1923.

CHAPTER 49.

(H. B. 271.)

FOR SCHOOL FOR DEAF

AN ACT Entitled, An Act Appropriating Money for Improvements and Equipments at the School for Deaf at Sioux Falls, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of Four Thousand (\$4,000.00) Dollars, or so much thereof as may be necessary for improvements and equipments at the School for Deaf at Sioux Falls, South Dakota, to be expended by the State Board of Charities and Corrections, for the uses and purposes following, to-wit:

Pavement	\$2,000.00
Printing Equipment	2,000.00

Section 2. Said funds shall be paid out on warrants drawn by the State Auditor based on duly itemized vouchers approved by the Board of Charities and Corrections.

Approved March 12, 1923.

CHAPTER 50.

(S. B. 333.)

FOR AID TO SCHOOL DISTRICTS HAVING INDEMNITY AND ENDOWMENT LANDS

AN ACT Entitled, An Act to Appropriate Money in Aid of the Common Schools of this State.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Fifteen Thousand (\$15,000.00) Dollars for the fiscal year ending June 30, 1924, and Fifteen Thousand (\$15,000.00) Dollars for the fiscal year ending June 30, 1925, in aid of the common schools of this state.

Section 2. The amount so appropriated shall be annually divided among and distributed to the several counties of this state for the

use and benefit of and in aid of the common schools thereof, and the county treasurer of each county receiving such aid shall re-divide and re-distribute the same to and for the use and benefit of the common or consolidated and independent schools of his county, in proportion to the acreage of indemnity and endowment lands owned by this state in each respective school district therein; provided, that the amounts received by any school district in any year shall not exceed the equivalent of two cents per acre for each and every acre of state owned indemnity and endowment lands situated within such school district. Provided, that such aid shall not be granted to any such district that has not in the previous year made a school levy of at least six mills. And provided further that such aid shall not be granted to any such district that contains within its boundaries less than 5,000 acres of Indemnity and Endowment lands.

Section 3. It shall be the duty of the Commissioner of School and Public Lands to supply to the several County Auditors of this State, the description of all unsold state indemnity and endowment lands situated within the organized school districts of this county.

Section 4. The State Auditor is hereby authorized to issue warrants on the above appropriation on vouchers approved by the Commissioner of School and Public Lands, and the State Treasurer is authorized to pay the same.

Approved March 12, 1923.

CHAPTER 51.

(S. B. 154)

DEFICIENCY. STATE SCHOOL OF MINES

AN ACT Entitled, An Act Appropriating Money for Deficiency in Maintenance, State School of Mines, Rapid City, South Dakota, for the Fiscal Year Ending June 30, 1923, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Seventeen Thousand Five Hundred and Seventy-seven (\$17,577.00) Dollars, or so much thereof as may be necessary, for deficiency in maintenance at the State School of Mines, Rapid City, South Dakota, for the fiscal year ending June 30, 1923.

Section 2. Whereas, this Act is necessary for the support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in force and effect after its passage and approval.

Approved February 27, 1923.

CHAPTER 52.

(S. B. 284.)

FOR SCHOOL OF MINES

AN ACT Entitled, An Act Appropriating Money for Improvements and Equipment of the School of Mines, Rapid City, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the following sums for improvements and equipment at the School of Mines, Rapid City, South Dakota, to be expended by the State Board of Regents, to-wit: The sum of Seven Thousand Five Hundred Dollars (\$7,500.00), for new machinery and apparatus, for each fiscal year 1923-24 and 1924-25: the sum of Ten Thousand Dollars (\$10,000.00) for the purpose of completing the heating plant, for the biennium.

Approved March 12, 1923.

CHAPTER 53.

(H. B. 131.)

FOR DRAINAGE ASSESSMENTS, SCHOOL AND PUBLIC LANDS

AN ACT Entitled, An Act to Appropriate Money to Pay Assessments for Drainage Affecting Common School Lands.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of the General Fund in the State Treasury, not otherwise appropriated, the sum of Seven Thousand, Four Hundred and Ninety-three and 86-100 (\$7493.86) Dollars, or so much thereof as may be needed to pay for drainage projects affecting common school lands, to be applied as follows:

SPINK COUNTY

Drainage Ditch No. 4, Spink County, First Assessment against the following tracts of land owned by the State of South Dakota, made for the purpose of paying for and maintaining the Drainage Ditch:

Section 16-119-61.

SW $\frac{1}{4}$ of NW $\frac{1}{4}$	\$ 47.94
NW $\frac{1}{4}$ of NW $\frac{1}{4}$	2.04
NW $\frac{1}{4}$ of SW $\frac{1}{4}$	9.18
	<hr/>
	\$ 59.16
Interest at 8% from September 7th, 1922.....	.90
	<hr/>
	\$ 60.06

LYMAN COUNTY

Jessop Drainage Ditch, Lyman County, First Assessment, made for the

purpose of paying for and maintaining the Jessop Drainage District:

Section 36-106-77.

SW $\frac{1}{4}$	\$311.00
Interest at 8% from July 15th, 1922	11.44
	<u>\$322.44</u>

DOUGLAS COUNTY

Meadow Valley Drainage Ditch, First Assessment, against the following described land owned by the State of South Dakota:

Section 16-100-66.

NE $\frac{1}{4}$ of NE $\frac{1}{4}$	\$106.88
NW $\frac{1}{4}$ of NE $\frac{1}{4}$	76.85
SW $\frac{1}{4}$ of NE $\frac{1}{4}$	76.85
NW $\frac{1}{4}$ of NW $\frac{1}{4}$	297.27
NE $\frac{1}{4}$ of SW $\frac{1}{4}$	53.44
	<u>\$611.29</u>
Interest at 7% from August 9th, 1921	66.18

\$677.47

DOUGLAS COUNTY

Garden Valley Drainage Ditch, First Assessment against the following described lands owned by the State of South Dakota:

Section 16-100-64.

SW $\frac{1}{4}$ of SE $\frac{1}{4}$	\$1,118.64
SE $\frac{1}{4}$ of SE $\frac{1}{4}$	76.23
SW $\frac{1}{4}$ of SW $\frac{1}{4}$	1,079.93
SE $\frac{1}{4}$ of SW $\frac{1}{4}$	1,378.49
	<u>\$3,652.69</u>
Interest on same at 7% from August 9th, 1921	143.48

\$3,796.17

BROWN COUNTY

Dortage—Detroit Crow Creek Drain, First, Second and Third Assessments against the following described lands owned by the State of South Dakota:

Section 36-128-61.

	First Assessment,	Second,	Third
W $\frac{1}{2}$ of NW $\frac{1}{4}$	\$ 33.53	\$ 33.53	\$ 33.53
W $\frac{1}{2}$ of SW $\frac{1}{4}$	6.71	6.71	6.71
SW $\frac{1}{4}$ of SE $\frac{1}{4}$ and E $\frac{1}{2}$ of SE $\frac{1}{4}$	50.30	50.30	50.30
	Section 13-128-60.		
NW $\frac{1}{4}$	4.88	4.88	4.88
	Section 16-128-60		
NE $\frac{1}{4}$	13.41	13.41	13.41
NW $\frac{1}{4}$ of SE $\frac{1}{4}$	3.35	3.35	3.35
W $\frac{1}{2}$ of NW $\frac{1}{4}$, NE $\frac{1}{4}$ of NW $\frac{1}{4}$	10.06	10.06	10.06
SW $\frac{1}{4}$	4.88	4.88	4.88
	Section 24-128-60.		
NW $\frac{1}{4}$	4.88	4.88	4.88
	Section 36-128-60.		
NW $\frac{1}{4}$	4.88	4.88	4.88
SW $\frac{1}{4}$	4.88	4.88	4.88
	Section 12-127-60.		
N $\frac{1}{2}$ of NW $\frac{1}{4}$	2.44	2.44	2.44

Section 16-127-60.			
NE $\frac{1}{4}$	67.07	67.07	67.07
N $\frac{1}{2}$ of SW $\frac{1}{4}$	6.71	6.71	6.71
N $\frac{1}{2}$ of NW $\frac{1}{4}$	33.53	33.53	33.53
Section 36-127-60.			
E $\frac{1}{2}$ of SW $\frac{1}{4}$	6.71	6.71	6.71
NE $\frac{1}{4}$	13.41	13.41	13.41
NW $\frac{1}{4}$ of NW $\frac{1}{4}$ and E $\frac{1}{2}$ of NW $\frac{1}{4}$	10.06	10.06	10.06
SE $\frac{1}{4}$	13.41	13.41	13.41
Section 36-127-61.			
NE $\frac{1}{4}$	4.88	4.88	4.88
SE $\frac{1}{4}$	4.88	4.88	4.88
Section 36-126-61.			
NE $\frac{1}{4}$	121.94	121.94	121.94
NE $\frac{1}{4}$ of SE $\frac{1}{4}$	30.49	30.49	30.49
SE $\frac{1}{4}$ of SE $\frac{1}{4}$	30.49	30.49	30.49
W $\frac{1}{2}$ of SE $\frac{1}{4}$	60.97	60.97	60.97
NW $\frac{1}{4}$	67.07	67.07	67.07
SW $\frac{1}{4}$	121.94	121.94	121.94
Section 16-126-60.			
SW $\frac{1}{4}$ of NE $\frac{1}{4}$	1.22	1.22	1.22
SW $\frac{1}{4}$	13.41	13.41	13.41
SE $\frac{1}{4}$	4.88	4.88	4.88
NW $\frac{1}{4}$	13.41	13.41	13.41
Section 16-125-61.			
NE $\frac{1}{4}$	13.41	13.41	13.41
SE $\frac{1}{4}$	67.08	67.08	67.08
SW $\frac{1}{4}$	13.41	13.41	13.41
NW $\frac{1}{4}$	4.88	4.88	4.88
	<u>\$869.46</u>	<u>\$869.46</u>	<u>\$869.46</u>

Interest on payment past due from October 10th, 1922, to April 10th, 1923, being the first assessment, \$29.34.

Section 2. The state auditor is hereby authorized and directed to issue warrants upon the above appropriation upon itemized vouchers approved by the commissioner of school and public lands, and the state treasurer is hereby authorized to pay the same.

Section 3. Whereas, this act is necessary for the immediate support of the state government and its existing institutions, an emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage.

Approved March 12, 1923.

CHAPTER 54.

(H. B. 291)

DEFICIENCY, SCHOOL AND PUBLIC LANDS

AN ACT Entitled, An Act Appropriating Money to Pay Deficiency in the Funds of the Commissioner of School and Public Lands for the Fiscal Year Ending June 30th, 1922, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of Fifteen Hundred Seventy-eight and 75-100 Dollars (\$1,578.75), or so much thereof as may be necessary, to pay a deficiency in the funds of the Commissioner of School and Public Lands authorized under the provisions of Section 6891 of the Revised Code by certificate of the Governor dated May 22, 1922.

Section 2. Whereas, this Act is immediately necessary for the support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 55.

(S. B. 281.)

FOR DEFICIENCY, SCHOOL AND PUBLIC LANDS

AN ACT Entitled, An Act Appropriating Money to Pay Deficiency Claims of John Warnke of the Department of School and Public Lands, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Fourteen Dollars (\$14.00) for the purpose of paying claims of John Warnke of the Department of School and Public Lands for meals furnished at Lumber Camp and for telephone service rendered during the fiscal year 1921-22.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing institutions, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage and approval.

Approved March 2, 1923.

CHAPTER 56.

(S. B. 285.)

FOR DEFICIENCY, SCHOOL AND PUBLIC LANDS

AN ACT Entitled, An Act Appropriating Money to Pay for Advertising Notices Published by the Commissioner of School and Public Lands, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Four and Seventy-five One-hundredths Dollars (\$4.75), or so much thereof as may be necessary, for the purpose of paying the claim of The Messenger Publishing Company for notices published in the Martin Messenger under the direction of the Commissioner of School and Public Lands.

Section 2. Whereas, this act is necessary for the immediate support of the State Government and its existing institutions, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 57.

(S. B. 83)

FOR MAINTENANCE FUND, SECRETARY OF STATE

AN ACT Entitled, An Act to Appropriate Money for Additional Maintenance for the Department of the Secretary of State for the Fiscal Year Ending June 30, 1923, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated from the Treasury of the State of South Dakota, out of any moneys not otherwise appropriated, the sum of Three Hundred and Sixty (\$360.00) Dollars to be added to the Maintenance Fund of the Department of the Secretary of State for the fiscal year ending June 30, 1923.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved February 10, 1923.

CHAPTER 58.

(H. B. 129)

DEFICIENCY APPROPRIATION FOR MRS. F. B. SMITH

AN ACT Entitled, An Act Authorizing the Payment of Deficiency Claims of a Member of the Womens Board of Investigation.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That the deficiency claims of Mrs. F. B. Smith, member of the Women's Board of Investigation, for the sum of Sixty-eight and 70-100 (\$68.70) Dollars for per diem and expenses incurred during the fiscal year 1921-1922, are hereby made payable out of funds appropriated by Section 34 of Chapter 21 of the Session Laws of 1921 for the fiscal year ending June 30th, 1923. The State Auditor shall issue warrants on the State Treasurer on duly itemized vouchers therefor, and the State Treasurer is hereby authorized to pay the same.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in force and effect from and after its passage.

Approved February 27, 1923.

CHAPTER 59.

(S. B. 291.)

DEFICIENCY, SOLDIERS COMPENSATION BOARD

AN ACT Entitled, An Act Appropriating Money for Deficiency in Maintenance and Salaries of the Soldiers' Bonus Board, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Twenty Thousand Dollars (\$20,000.00), or so much thereof as may be necessary to continue the work of the Soldiers' Bonus Board until October 1st, 1923.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing institutions, an emergency is hereby declared to exist and this Act shall be in force and effect from and after its passage and approval.

Approved March 5, 1923.

CHAPTER 60.

(H. B. 292.)

DEFICIENCY, SOLDIERS COMPENSATION BOARD

AN ACT Entitled, An Act Appropriating Money for Deficiency in the Soldiers' Bonus Board Fund.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of fifty-eight thousand nine hundred twenty-two dollars and sixty-nine cents (\$58,922.69), or so much thereof as may be necessary, to pay Six Emergency Certificates issued by the Governor of the State, according to law for deficiencies in the fund of the Soldiers' Bonus Board of the State of South Dakota, vouchers covering the same having been filed with the State Auditor.

The items are as follows:

One certificate for \$5,000 dated October 27th, 1921; and interest thereon to March 1st, 1923, four hundred ninety-six dollars and eighty-two cents (\$496.82).

One certificate for \$10,000 dated November 22nd, 1921, and interest thereon to March 1st, 1923, nine hundred forty-four dollars and ninety-nine cents (\$944.99).

One certificate for \$10,000 dated January 1st, 1922, and interest thereon to March 1st, 1923, eight hundred twenty-six dollars and nineteen cents (\$826.19).

One certificate for \$10,000 dated March 21st, 1922, and interest thereon to March 1st, 1923, seven hundred nine dollars and sixty-nine cents (\$709.69).

One certificate for \$10,000 dated May 26th, 1922, and interest thereon to March 1st, 1923, five hundred eighty-one dollars and thirty-nine cents (\$581.39).

One certificate for \$10,000 dated August 26, 1922, and interest thereon to March 1st, 1923, three hundred sixty-three dollars and sixty-one cents (\$363.61).

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1923.

CHAPTER 61.

(H. B. 71)

FOR DEFICIENCY, SOLDIER'S HOME

AN ACT Entitled, An Act Appropriating Money for Deficiency in the Maintenance Fund at the State Soldier's Home at Hot Springs, South Dakota, from April 27, 1922 to June 30, 1922.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Twenty Thousand Five Hundred and Forty-eight and 30-100th (\$20,548.30) Dollars, or so much thereof as may be necessary to pay three Emergency Certificates, and interest thereon, issued by the Governor of the State, according to law for deficiencies in the maintenance fund at the State Soldiers' Home at Hot Springs, South Dakota, from April 27th, 1922, to June 30th, 1922, vouchers covering the same having been filed with the State Auditor:

The items are as follows:

One certificate for \$6,000.00 dated April 27th, 1922, and interest thereon to March 1st, 1923, \$354.65;

One certificate for \$7,000.00 dated May 19th, 1922, and interest thereon to March 1st, 1923, \$386.51;

One certificate for \$6,500.00 dated June 28th, 1922, and interest thereon to March 1st, 1923, \$307.14.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved February 9, 1923.

CHAPTER 62.

(H. B. 126.)

FOR SOLDIERS HOME

AN ACT Entitled, An Act Appropriating Money for Repairs and Equipment at Main Hospital and a Well and Pumping Machinery at the State Soldiers Home at Hot Springs, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated the sum of Seven Thousand Seven Hundred and Ninety (\$7,790.00) Dollars, or so much thereof as may be necessary, for Repairs and Equipment at Main Hospital and a Well and Pumping Machinery at the State Soldiers' Home at Hot Springs, South Dakota, to be expended by the Soldiers' Home Board for the uses and purposes following, to-wit:

For Repairs and Equipment Main Hospital \$4,890.00
 For Well and Pumping Machinery 2,900.00

Section 2. Said funds shall be paid out on warrants drawn by the State Auditor based on duly itemized vouchers approved by the Soldiers' Home Board.

Section 3. Whereas, this act is necessary for the immediate support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 63.

(H. B. 127.)

FOR SOLDIERS' HOME

AN ACT Entitled, An Act Appropriating Money for Improvements, Repairs and Equipments at the State Soldiers Home at Hot Springs, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated the sum of Seventeen Thousand One Hundred and Seventy-five (\$17,175.00) Dollars for Improvements, Repairs and Equipments at the State Soldiers' Home at Hot Springs, South Dakota, to be expended by the Soldiers' Home Board for the uses and purposes following, to-wit: Re-roofing Main Building and Hospital No. 2, Additional Fire Mains and Sewers, Sidewalk from town, Refrigerating Plant, and Light and Power Plant.

Section 2. Said funds shall be paid out on warrants drawn by the State Auditor based on duly itemized vouchers approved by the Soldiers' Home Board.

Approved March 12, 1923.

CHAPTER 64.

(H. B. 130.)

FOR SOLDIERS' HOME BOARD

AN ACT Entitled, An Act Appropriating Money for the Relief of Veterans of the Civil War, Their Wives and Widows, Physically Unable to Go to the Soldiers' Home, Hot Springs, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Twelve Thousand Five Hundred Dollars (\$12,500.00), or so much thereof as may be necessary, for the fiscal year ending June 30, 1924, and Twelve Thousand Five

Hundred Dollars (\$12,500.00 or so much thereof as may be necessary, for the fiscal year ending June 30, 1925, to be expended by the Soldiers' Home Board as follows:

Twelve Thousand Dollars (\$12,000.00) shall be available each year for the two fiscal years hereinbefore set forth, for the relief and care of veterans of the Civil war, their wives and widows residing in this State, who are, by reason of sickness or disability, not in a condition to be taken to the State Soldiers' Home, Hot Springs, South Dakota, for care and treatment.

Five Hundred Dollars (\$500.00) shall be available each year for the two fiscal years hereinbefore set forth, for clerical work, postage and stationery for the distribution of the Relief Fund herein appropriated.

Section 2. The Soldiers' Home Board is hereby empowered to make all necessary rules and regulations for the administration and use of the funds appropriated by this Act.

Approved March 12, 1923.

CHAPTER 65.

(S. B. 168)

FOR BURIAL, SOLDIERS AND SAILORS

AN ACT Entitled, An Act Appropriating Money for the Burial of Soldiers and Sailors.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated, out of any moneys in the State Treasury, not otherwise appropriated, the sum of Eight Thousand Dollars (\$8,000.00), or so much thereof as may be necessary, to pay for the burial of deceased soldiers and sailors, for the biennium ending June 30, 1925.

Approved February 27, 1923.

CHAPTER 66.

(H. B. 277)

FOR SPEARFISH NORMAL

AN ACT Entitled, An Act Appropriating Money for Improvements and Repairs at the Spearfish Normal School, Spearfish, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Nineteen Thousand, Eight Hundred (\$19,800.00) Dollars, or so much thereof as may be necessary, for Improvements, Equipment and Repairs at the Spearfish Normal School, Spearfish, South Dakota, to be expended by the Regents of Education for the uses and purposes following, to-wit:

Roofs for two buildings and additional rooms.....	\$9,000
Painting Gymnasium	500
Lockers	500
Repairing Boiler	2,000
Rebuilding toilets	3,000
Linoleum for Old Dormitory	4,000
Forced Draft Boilers	800

Section 2. Said funds shall be paid out on warrants drawn by the State Auditor based on duly itemized vouchers approved by the Regents of Education.

Approved March 12, 1923.

CHAPTER 67.

(H. B. 72.)

DEFICIENCY, STATE AUDITOR

AN ACT Entitled, An Act Appropriating Money to Care for Certain Deficiencies for Supplies and Equipment in the State Auditor's Office, for the Fiscal Year Ending June 30th, 1923.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of the general fund in the State Treasury, not otherwise appropriated, the sum of three thousand and no one-hundredths dollars (\$3000.00), or so much thereof as may be necessary, to be expended by the State Auditor for certain deficiencies for salaries, supplies and equipment as follows:

Printing warrants, postage, office supplies.....	\$ 500.00
Extra help including proof readers Vol. 1.....	250.00
Two book-keeping machines	750.00
Steel filing case and ladder for vault	1,500.00

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 68.

(S. B. 92)

FOR DEFICIENCY, STATE AUDITOR'S OFFICE

AN ACT Entitled, An Act Appropriating Money for Deficiency in Maintenance in the State Auditor's Department, for the Fiscal Year Ending June 30, 1922, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Twenty-seven Hundred and Nine Dollars and Twenty-five Cents (\$2,709.25), or so

much thereof as may be necessary, for deficiency in maintenance in the State Auditor's Department, for the fiscal year ending June 30, 1922.

Section 2. Whereas, this Act is necessary for the support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in effect upon and after its passage and approval.

Approved February 17, 1923.

CHAPTER 69.

(H. B. 295.)

FOR STATE BUDGET BOARD

AN ACT Entitled, An Act Appropriating Money for Compensation and Expense of the Budget Board.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Five Thousand (\$5,000.00) Dollars, or so much thereof as may be necessary, to compensate and pay the expenses of those members of the Budget Board whose compensation and expense are not otherwise paid, and to pay all other expense legally incurred by the Budget Board during biennial period ending June 30, 1925.

Approved March 12, 1923.

CHAPTER 70.

(S. B. 302.)

FOR TREES, STATE CAPITOL

AN ACT Entitled, An Act Appropriating Money for the Purchase of Trees to be Planted Upon the Capitol Grounds and State Properties Contiguous Thereto.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of One Thousand Dollars, or so much thereof as may be necessary, for the purchase of trees to be planted upon the capitol grounds, the grounds purchased by the State upon which is to be erected a Governor's mansion, and grounds contiguous to the capitol grounds purchased by the State of South Dakota. Said sum shall be expended by warrants of the State Auditor, issued upon duly itemized vouchers approved by the Deputy Superintendent of the Capitol, and the State Treasurer is authorized to pay the same.

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 71.

(S. B. 287.)

DEFICIENCY, STATE BOARD OF CHARITIES AND CORRECTIONS

AN ACT Entitled, An Act Authorizing the Payment of Deficiency Claims of C. M. Day and Jacob Tschetter, Members of the Board of Charities and Corrections.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That the deficiency claims of C. M. Day and Jacob Tschetter, Members of the Board of Charities and Corrections, in the sums of Forty-eight and Eleven One-hundredths Dollars (48.11) and Forty-seven and Eighty-three One-hundredths Dollars (47.83) respectively, for expenses incurred during the fiscal year ending June 30, 1921, in connection with services rendered said board, are hereby made payable out of funds available July 1, 1923.

The State Auditor shall issue warrants on the State Treasurer on duly itemized vouchers therefor, and the State Treasurer is hereby authorized to pay the same.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the Governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the Secretary of State with his objections, within the time prescribed by the Constitution, has become a law without his approval.

C. E. COYNE, Secretary of State.

CHAPTER 72.

(H. B. 251.)

FOR STATE COLLEGE

AN ACT Entitled, An Act Appropriating Money for the Construction of a Building at the State College of Agriculture and Mechanic Arts, Brookings, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Eight Thousand (\$8,000.00) Dollars, or so much thereof as may be necessary, to be expended for the construction of a building to be used for housing, judging, breeding instructions and class room work in poultry at the State College of Agriculture and Mechanic Arts, Brookings, South Dakota.

Section 2. Said funds shall be paid out on warrants drawn by the State Auditor based on duly itemized vouchers approved by the Board of Regents of Education.

Approved March 12, 1923.

CHAPTER 73.

(H. B. 258.)

FOR STATE COLLEGE

AN ACT Entitled, An Act Appropriating Money for Completing New Boiler Room Machinery, New Engine Room, Campus Tunnel, Greenhouse Tunnel and Transfer of Machinery from the Old Plant at the College of Agriculture and Mechanic Arts, Brookings, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Fifty Thousand (\$50,000.00) Dollars, or so much thereof as may be necessary, for completing new boiler room machinery, new engine room, campus tunnel, greenhouse tunnel and transfer of machinery, at the College of Agriculture and Mechanic Arts, Brookings, South Dakota.

Section 2. Said funds shall be paid out on warrants drawn by the State Auditor based on duly itemized vouchers approved by the Board of Regents of Education.

Approved March 12, 1923.

CHAPTER 74.

(S. B. 275.)

DEFICIENCY, STATE COLLEGE

AN ACT Entitled, An Act Authorizing the Payment of the Claim of Gale Peppers for Labor Performed for the Soil Survey at the College of Agriculture and Mechanic Arts, Brookings, South Dakota, During the Fiscal Year Ending June 30, 1921. Out of the Maintenance Fund Available July 1, 1923.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That the claim of Gale Peppers, for labor performed for the Soil Survey at the College of Agriculture and Mechanic Arts, Brookings, South Dakota, in the sum of Fifty-seven and Twenty-four One-hundredths Dollars (\$57.24), is hereby made payable out of the Maintenance Fund available July 1, 1923.

Approved March 3, 1923.

CHAPTER 75.

(H. B. 250.)

FOR STATE FAIR BUILDINGS

AN ACT Entitled, An Act Appropriating Money for Boys and Girls Club Building, and Stalls and Pens for Live Stock, at the State Fair Grounds, Huron, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Fifteen Thousand (\$15,000.00) Dollars, or so much thereof as may be necessary, for a Boys' and Girls' Club Building and Stalls and Pens for Live Stock at the State Fair Grounds, Huron, South Dakota, to be expended by the State Board of Agriculture.

Approved March 12, 1923.

CHAPTER 76.

(H. B. 272.)

FOR STATE FAIR GROUNDS

AN ACT Entitled, An Act Appropriating Money for Remodeling Women's Building and Converting Elite Dining Hall Into Public Health and Child Welfare Building, at the State Fair Grounds, Huron, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Six Thousand Two Hundred (\$6,200.00) Dollars, or so much thereof as may be necessary, for remodeling the Women's Building and Converting Elite Dining Hall into Public Health and Child Welfare Building, at the State Fair Grounds, Huron, South Dakota, to be expended by the State Board of Agriculture, for the uses and purposes following, to-wit:

For Remodeling Women's Building	\$2,350
For Converting Elite Dining Hall into Public Health and Child Welfare Building	3,850

Section 2. Said funds shall be paid out on warrants drawn by the State Auditor based on duly itemized vouchers approved by the State Board of Agriculture.

Approved March 12, 1923.

CHAPTER 77.

(H. B. 110.)

DEFICIENCY, STATE LIVESTOCK SANITARY BOARD

AN ACT Entitled, An Act Appropriating Money to Reimburse the Partnership Firm of Wadleigh & Payne for Cattle Lost Following Dipping in Compliance With an Order of the Livestock Sanitary Board.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of seven hundred dollars (\$700.00) to reimburse the partnership firm of Wadleigh & Payne for cattle lost following dipping in August, 1921, in compliance with an order of the Livestock Sanitary Board.

Section 2. Whereas, this act is necessary for the support of the state and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in force and effect after its passage and approval.

Approved March 12, 1923.

CHAPTER 78.

(H. B. 114.)

FOR DEFICIENCY, STATE LIVESTOCK SANITARY BOARD

AN ACT Entitled, An Act Appropriating and Transferring Money From the Funds Appropriated for the Live Stock Sanitary Board for the Fiscal Year 1922-23 by Section 17 of the Laws of 1921, to a Fund for the Payment of Deficiencies for Indemnity for Animals Destroyed on Account of Tuberculosis Under the Accredited Herds Plan for the Fiscal Year Ending June 30th, 1921.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of and transferred from moneys appropriated by Section 17, Laws of 1921, of \$22,500.00 for office and other incidental expenses, to a fund for the payment of deficiencies for indemnity for animals destroyed on account of tuberculosis under the accredited herds plan under the supervision and direction of the Live Stock Sanitary Board for the fiscal year ending June 30th, 1921, the sum of \$7,925.00.

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 79.

(H. B. 132.)

DEFICIENCY, STATE LIVESTOCK SANITARY BOARD

AN ACT Entitled, An Act Appropriating Money for Deficiency in the Funds of the State Livestock Sanitary Board Available to Pay the Salaries of Dipping Vat Inspectors Employed by Said Board and Other Expenses Incidental and Necessary to the Work in the Eradication of Scabies in Areas Declared to be Affected With Said Disease for the Fiscal Year Ending June 30, 1921.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Two Thousand Eight Hundred and Forty-four and 93-100th (\$2844.93) Dollars for deficiency in the funds of the State Livestock Sanitary Board available to pay salaries of Dipping Vat Inspectors employed by said board and other expenses incidental and necessary to the work in the Eradication of Scabies in areas declared to be affected with said disease for the fiscal year ending June 30th, 1921, for the payment of the following items:

Walker Bros.	\$ 102.82
Ben Brindley	434.00
Ralph Nash	34.00
Earl E. Bouchie	7.10
Albert Mohr	49.75
M. D. Simpson	20.40
Dr. W. G. Schneider	9.60
C. F. George	3.75
B. H. Giddings	34.00
Dr. C. B. Lenker	73.70
Mark Dean	15.00
Dr. J. L. Barber	6.10
Dr. M. W. Ray	50.30
Andrew Hibbeln	25.00
Earl Smith	91.56
Wm. J. Obele	65.40
Charles Swanson	18.00
Tony Kammerer	24.60
Coleman Bates	3.75
Fred Ebert	193.70
F. C. Stone	8.60
John Mosely	185.55
W. M. Gilchrist	105.35
L. W. Wheeler	45.00
John L. Chapman	72.00
F. H. Tower	52.00
Geo. M. Doran	93.90
J. P. Miller	235.30
H. L. Thomson	283.90
G. W. White	25.40
M. W. Walker	50.25
A. C. Forney	12.05
C. W. Landers	211.60
L. C. Sonnenschein	75.50
P. H. Sager	126.00

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 80.

(H. B. 143.)

DEFICIENCY, STATE PENITENTIARY

AN ACT Entitled, An Act Appropriating Money for Deficiency in Maintenance and Salaries at the State Penitentiary at Sioux Falls, South Dakota, for the Fiscal Year Ending June 30, 1923, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of Eighty-one Thousand and Nine Hundred Sixty-one and Eighty-five One-hundredths Dollars (\$81,961.85), or so much thereof as may be necessary, for deficiency in maintenance and salaries at the State Penitentiary at Sioux Falls, South Dakota, for the fiscal year ending June 30, 1923, to be expended by the State Board of Charities and Corrections.

Section 2. Whereas, this Act is necessary for the immediate support of the State government and its existing institutions, an emergency is hereby declared to exist and this act shall be in force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 81.

(S. B. 270.)

FOR STATE PENITENTIARY

AN ACT Entitled, An Act Appropriating Money for Equipment for the Twine Plant at the Penitentiary, Sioux Falls, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Twenty-three Thousand Dollars (\$23,000.00), or so much thereof as may be necessary, for the equipment for the Twine Plant at the Penitentiary, Sioux Falls, South Dakota, to be expended by the State Board of Charities and Corrections, available for the bennium.

Said funds to be paid out on warrants drawn by the State Auditor upon vouchers approved by the Board of Charities and Corrections.

Approved March 12, 1923.

CHAPTER 82.

(S. B. 271.)

FOR STATE PENITENTIARY

AN ACT Entitled, An Act Appropriating Money for the State Penitentiary, Sioux Falls, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of One Hundred Seventy Five Thousand Dollars (\$175,000.00) or so much thereof as may be necessary, for remodeling cells and repairing a building at the Penitentiary, Sioux Falls, South Dakota, to be expended by the State Board of Charities and Corrections, available for the biennium.

Approved March 12, 1923.

CHAPTER 83.

(H. B. 289.)

FOR SEWER ASSESSMENTS ON STATE PROPERTY AT RAPID CITY AND PIERRE

AN ACT Entitled, An Act Appropriating Money for the Payment of Special Sewer Taxes Assessed Against State Owned Property Located in the Cities of Rapid City and Pierre, South Dakota, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of three hundred dollars, or so much thereof as may be necessary, for the payment of special sewer taxes assessed against state owned property located in the cities of Rapid City and Pierre, South Dakota, by said municipalities.

Section 2. Whereas, this act is necessary for the immediate support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 84.

(S. B. 272.)

FOR STATE SANITARIUM

AN ACT Entitled, An Act Appropriating Money for a Silo, Machinery and Equipment at the State Sanitarium at Custer, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of One Thousand

Two Hundred Dollars (\$1,200.00), or so much thereof as may be necessary, for a silo, machinery and equipment at the State Sanitarium at Custer, South Dakota.

Said fund to be paid out on warrants drawn by the State Auditor upon vouchers approved by the Board of Charities and Corrections.

Approved March 12, 1923.

CHAPTER 85.

(S. B. 273.)

FOR STATE SANITARIUM

AN ACT Entitled, An Act Appropriating Money for the State Sanitarium at Custer, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Twenty-five Thousand Dollars (\$25,000.00) or so much thereof as may be necessary, for completing two new pavilions at the State Sanitarium at Custer, South Dakota.

Said fund to be paid out on warrants drawn by the State Auditor upon vouchers approved by the Board of Charities and Corrections.

Approved March 12, 1923.

CHAPTER 86.

(S. B. 274.)

FOR STATE SANITARIUM

AN ACT Entitled, An Act Appropriating Money for a Power and Heating Plant at the State Sanitarium at Custer, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of fifty thousand dollars, (\$50,000.00), or so much thereof as may be necessary, for a power and heating plant at the State Sanitarium at Custer, South Dakota.

Said fund to be paid out on warrants drawn by the State Auditor upon vouchers approved by the Board of Charities and Corrections.

Approved March 12, 1923.

CHAPTER 87.

(S. B. 51)

FOR DEFICIENCY, STATE SCHOOL FOR THE BLIND

AN ACT Entitled, An Act Appropriating Money for Deficiency in Maintenance and Salaries at the State School for the Blind for the Fiscal Year Ending June 30, 1923, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Five Thousand Dollars (\$5,000.00), or so much thereof as may be necessary, for the deficiency in maintenance and salaries for the State School for the Blind for the fiscal year ending June 30, 1923.

Section 2. Whereas, this Act is necessary for the support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect after its passage and approval.

Approved February 3, 1923.

CHAPTER 88.

(S. B. 317.)

FOR DEFICIENCY, STATE SCHOOL FOR BLIND

AN ACT Entitled, An Act Appropriating Money for Deficiency in Maintenance at the State School for the Blind for the Fiscal Year Ending June 30, 1922, and Declaring an Emergency

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Six Thousand Dollars (\$6,000.00), and interest on same at the rate of seven per cent per annum from May 1, 1922, to March 1, 1923, amounting to Three Hundred Fifty-two and Twenty-three One-hundredths Dollars (\$352.23), for the deficiency in maintenance for the State School for the Blind for the fiscal year ending June 30, 1922.

Section 2. Whereas, this Act is necessary for the support of the State Government and its existing institutions, an emergency is hereby declared to exist and this act shall be in force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 89.

(H. B. 257.)

FOR STATE SCHOOL AND HOME FOR FEEBLE MINDED

AN ACT Entitled, An Act Appropriating Money for Razing and Rebuilding the Custodial Building at the State School and Home for Feeble Minded at Redfield, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Sixty Thousand (\$60,000.00) Dollars, or so much thereof as may be necessary, to be used for razing and rebuilding the Custodial Building at the State School and Home for Feeble Minded at Redfield, South Dakota, to be expended by the Board of Charities and Corrections.

Approved March 12, 1923.

CHAPTER 90.

(S. B. 50)

FOR STATE TRAINING SCHOOL

AN ACT Entitled, An Act Appropriating Money for the Purchase and Installation of an Engine and Generator for the Electric Light Plant at the South Dakota State Training School, at Plankinton, South Dakota, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. For the necessary support of the South Dakota State Training School, there is hereby appropriated out of the money in the State Treasury, not otherwise appropriated, the sum of Three Thousand (\$3,000.00) Dollars. The moneys hereby appropriated shall be available immediately for the purpose of purchasing and installing an engine and generator for the electric light plant at the South Dakota Training School at Plankinton, South Dakota, and shall be paid out by the State Auditor by warrants drawn on the State Treasurer on requisitions or vouchers made and approved.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved February 3, 1923.

CHAPTER 91.

(S. B. 282.)

FOR STATE TRAINING SCHOOL

AN ACT Entitled, An Act Appropriating Money for the State Training School Plankinton, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Three Thousand Dollars (\$3,000.00) for special repairs; the sum of One Thousand Dollars (\$1,000.00) for repairing heating plant; the sum of One Thousand Dollars (\$1,000.00) for fencing, at the State Training School at Plankinton, South Dakota; said funds to be paid out on warrants drawn by the State Auditor upon vouchers approved by the Board of Charities and Corrections.

Approved March 12, 1923.

CHAPTER 92.

(S. B. 134)

FOR OFFICE. SUPERINTENDENT OF PUBLIC INSTRUCTION

AN ACT Entitled, An Act Authorizing the Payment of the Claims of M. M. Guhin for Supplies Furnished the Office of the Superintendent of Public Instruction, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. The State Auditor is hereby authorized and directed to issue a warrant for the amount of Fifty-three Dollars and Seventy-five Cents (\$53.75) upon the Office and Maintenance Fund available for the fiscal year 1922-23, as provided for in Section 24 of Chapter 21 of the Session Laws of 1921, to M. M. Guhin for stationery and supplies furnished the Superintendent of Public Instruction, upon properly itemized vouchers, approved by the Superintendent of Public Instruction, and the State Treasurer is hereby authorized to pay same.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist and this act shall be in force and effect from and after its passage and approval.

Approved February 15, 1923.

CHAPTER 93.

(S. B. 93)

FOR DEFICIENCY, SUPREME COURT

AN ACT Entitled, An Act Appropriating Money to Pay Deficiency Expenses of the Supreme Court, for the Fiscal Year Ending June 30, 1923, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Twenty-five Hundred Ninety-three and Sixty-three One-Hundredths (\$2,593.63) Dollars, or so much thereof as may be necessary, to pay deficiency expenses of the Supreme Court, for the fiscal year ending June 30, 1923.

Section 2. Whereas, this Act is necessary for the support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in force and effect after its passage and approval.

Approved February 17, 1923.

CHAPTER 94.

(H. B. 252.)

FOR UNIVERSITY OF SOUTH DAKOTA

AN ACT Entitled, An Act Appropriating Money for the Construction of an Administration Building at the State University at Vermillion, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of \$250,000.00, or so much thereof as may be necessary, for the construction of an Administration Building at the State University at Vermillion, South Dakota, to contain an auditorium and to be used for general class room and other university purposes.

Section 2. Said funds shall be paid out on warrants drawn by the State Auditor based on duly itemized vouchers approved by the Board of Regents.

Approved March 12, 1923.

CHAPTER 95.

(S. B. 84)

FOR DEFICIENCY, WOLF BOUNTIES

AN ACT Entitled, An Act Appropriating Money to Pay Deficiency Claims for Wolf Bounty as Filed in the State Auditor's Office, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of the money in the

State Treasury, not otherwise appropriated, the sum of Twenty-five Thousand (\$25,000.00) Dollars, or so much thereof as may be necessary to pay deficiency claims for wolf bounty as filed in the State Auditor's Office.

Section 2. Whereas, this Act is necessary for the support of the State and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in force and effect after its passage and approval.

Approved February 9, 1923.

CHAPTER 96.

(S. B. 283.)

DEFICIENCY, WOMEN'S BOARD OF INVESTIGATION

AN ACT Entitled, An Act Authorizing the Payment of Deficiency Claims of a Member of the Women's Board of Investigation, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That the deficiency claims of Mrs. O. W. Coursey, member of the Women's Board of Investigation, for the sum of One Hundred and Forty and Nineteen One-hundredths Dollars (\$140.19), for per diem and expenses incurred during the fiscal year 1921-22, are hereby made payable out of funds appropriated by Section 34 of Chapter 21 of the Session Laws of 1921 for the fiscal year ending June 30, 1923. The State Auditor shall issue warrants on the State Treasurer on duly itemized vouchers therefor, and the State Treasurer is hereby authorized to pay the same.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 97.

(H. B. 254.)

FOR YANKTON STATE HOSPITAL

AN ACT Entitled, An Act Appropriating Money for a Warehouse at the State Hospital for the Insane, Yankton, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Fifteen Thousand (\$15,000.00) Dollars, or so much thereof as may be necessary, to be expended by the State Board of Charities and Corrections for the erection of a warehouse at the State Hospital for the Insane, Yankton, South Dakota, available during the fiscal year ending June 30th, 1925.

Section 2. Said funds shall be paid out on warrants drawn by the State Auditor based on duly itemized vouchers approved by the Board of Charities and Corrections.

Approved March 12, 1923.

CHAPTER 98.

(H. B. 255.)

FOR YANKTON STATE HOSPITAL

AN ACT Entitled, An Act Appropriating Money for Hog Houses at the State Hospital for the Insane, Yankton, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Five Thousand (\$5,000.00) Dollars, or so much thereof as may be necessary, to be expended by the State Board of Charities and Corrections for the erection of hog houses at the State Hospital for the Insane, Yankton, South Dakota.

Section 2. Said funds shall be paid out on warrants drawn by the State Auditor based on duly itemized vouchers approved by the Board of Charities and Corrections.

Section 3. Whereas, this Act is necessary for the immediate support of the state government and its existing institutions, an emergency is hereby declared to exist and this act shall be in force and effect from and after its passage an approval.

Approved March 12, 1923.

CHAPTER 99.

(H. B. 256.)

FOR YANKTON STATE HOSPITAL

AN ACT Entitled, An Act Appropriating Money for Buildings for Women at the State Hospital for the Insane, Yankton, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Sixty Thousand (\$60,000.00) Dollars, or so much thereof as may be necessary, available after July 1st, 1924, to be expended by the State Board of Charities and Corrections for buildings for Women at the State Hospital for the Insane, Yankton, South Dakota.

Section 2. Said funds shall be paid out on warrants drawn by the State Auditor based on duly itemized vouchers approved by the Board of Charities and Corrections.

Approved March 12, 1923.

CHAPTER 100.

(H. B. 275.)

FOR YANKTON STATE HOSPITAL

AN ACT Entitled, An Act Appropriating Money for Sewage Disposal at the Hospital for the Insane at Yankton, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of Twenty-five Thousand (\$25,000.00) Dollars, or so much thereof as may be necessary, to be expended by the Board of Charities and Corrections, for sewage disposal at the Hospital for the Insane at Yankton, South Dakota.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing institutions, an emergency is hereby declared to exist and this act shall be in force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 101.

(H. B. 278.)

FOR YANKTON STATE HOSPITAL

AN ACT Entitled, An Act Appropriating Money for the Installation of a Reserve Boiler and for Fencing and Weather Stripping at the State Hospital for Insane, Yankton, South Dakota.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, seventeen thousand five hundred dollars (\$17,500.00) or so much thereof as may be necessary, for the installation of a reserve boiler and for fencing and weather stripping at the State Hospital for Insane, Yankton, South Dakota, to be expended by the State Board of Charities and Corrections, for the uses and purposes following, to-wit:

For installation of a reserve boiler	\$15,000
For fencing	2,500

Section 2. Said funds shall be paid out on warrants drawn by the State Auditor based on duly itemized vouchers approved by the Board of Charities and Corrections.

Approved March 12, 1923.

Assessment and Taxation

CHAPTER 102.

(S. B. 4.)

RELATING TO ASSESSMENT OF AGRICULTURAL LAND AND TAX LEVIES IN INDEPENDENT SCHOOL DISTRICTS AND CONSOLIDATED SCHOOL DISTRICTS

AN ACT Entitled, An Act Defining Agricultural Lands, Providing the Manner of Assessing Agricultural Lands, Fixing a Maximum Levy of Ten Mills Thereon Within Independent and Independent Consolidated School Districts, and Requiring the County Auditor to Certify the Amount of Assessed Valuation of Agricultural Lands to School Districts, and Amending Section 7567 of the South Dakota Revised Code of 1919, as Amended by Chapter 50 of the Laws of the Special Session of 1920.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. Agricultural lands, for the purpose of this act, shall include all tracts of land, not platted into city or town lots, used exclusively for farm and agricultural purposes.

Section 2. The assessor in listing and assessing real property situated within an independent school district or independent consolidated school district, shall designate, opposite each description, whether or not the same is agricultural land.

Section 3. No agricultural land within an independent school district or an independent consolidated school district shall in any one year be taxed to exceed ten (10) mills on the dollar of the assessed valuation for school purposes; provided, that if the average assessed valuation of agricultural land in such district in any year shall be less than fifty (\$50.00) dollars per acre, this act shall not apply thereto. Provided, that independent consolidated school district in which there is no incorporated town shall not be included in the provisions of this act.

Section 4. It shall be the duty of the county auditor to transmit to the clerk of each independent or independent consolidated school district within his county, his certificate, under seal of his office, on or before the first Tuesday in September, which certificate shall show the number of acres of agricultural lands assessed within the school district, and the average assessed valuation per acre, including improvements thereon, figured on the basis of the assessment as equalized by the State Tax Commission.

Section 5. That Section 7567 of the Revised Code of 1919, as amended by Chapter 50 of the Session Laws of 1920, is hereby amended to read as follows:

Section 7567. The board of education shall, on the second Tuesday in September each year, or within ten days thereafter, levy a tax for the support of the schools of the corporation for the fiscal year next ensuing, not exceeding in any one year twenty-five mills on the dollar of the assessed valuation of all taxable property within the district, provided, the average assessed valuation of agricultural lands therein is less than fifty dollars per acre; in a district in which the average assessed valua-

tion of agricultural lands is fifty dollars or more, the board of education shall levy a tax for the support of the schools within the district, not exceeding in any one year ten mills on the dollar of the assessed valuation of all taxable property therein, provided, that if such levy is insufficient for the support of the schools within the district, the board shall levy an additional tax, not exceeding twenty-five mills in the aggregate on the dollar of the assessed valuation on all taxable property other than agricultural land within the district. The clerk of the school board shall certify the levy to the county auditor, who is authorized and required to place the same on the tax roll of the county, to be collected by the county treasurer as the taxes of the county, and paid over by him to the treasurer of the school district, of whom he shall take a receipt in duplicate, one of which he shall file in his office and the other he shall transmit to the clerk of the board of education. Such receipt shall show the proportionate amounts belonging to the several funds of the board of such school district, apportioned by the treasurer thereof according to the relative amounts levied by such board for the current year.

Section 6. Whereas, this act is necessary for the support of the state government and its existing institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1923.

CHAPTER 103.

(H. B. 153.)

RELATING TO BANK STOCK

AN ACT Entitled, An Act to Amend Section 6696 of the Revised Code of 1919, as Amended by Chapter 104 of the Session Laws of 1919, and to Re-enact Section 6698, as Amended by Section 2 of Chapter 104 of the Session Laws of 1919, Relating to the Assessment and Taxation of Bank Stock and Legalizing, Ratifying and Confirming Taxes Heretofore Levied Upon Shares of Stock of State and National Banks.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6696 of the Revised Code of 1919, as amended by Chapter 104 of the Session Laws of 1919, be and the same is hereby amended to read as follows:

Section 6696. The stockholders of every bank located in this State, whether such bank has been organized under the banking laws of this State or of the United States, shall be assessed and taxed on the value of their shares of stock therein in the county, town, district, city or village where such bank or banking association is located, and not elsewhere, whether such stockholders reside in such places or not, such shares shall be listed and assessed annually with regard to the ownership and the value thereof on the first day of May of each year. To aid the assessor in determining the value of such shares of stock, the accounting officer of every bank shall furnish a statement to the assessor, verified by oath, showing the amount and number of shares of capital stock of such bank, the amount of its surplus or reserve fund, the amount of its undivided profits, and the amount of the legal investments in real estate, which real estate shall be assessed and taxed as other real estate is

assessed and taxed. The assessor shall deduct the amount of such investments in real estate from the aggregate amount of such capital, and the remainder of the capital, surplus fund and undivided profits shall be taken as a basis for the valuation of such shares of stock in the hands of the stockholders, subject to the provisions of law requiring all property to be assessed at its true full value, provided that the valuation of such shares of stock represented by the surplus or reserve fund and undivided profits shall be levied upon at the same rate as moneys and credits. The shares of capital stock of national banks not located in this State, held in this State, shall not be required to be listed under this act.

Section 2. That Section 6698 of the Revised Code of 1919, as amended by Section 2, Chapter 104, Session Laws of 1919, be, and the same is hereby re-enacted to read as follows:

Section 6698. To secure the payment of taxes on bank stock or banking capital, it shall be the duty of every bank, or managing officer thereof, to retain so much of any dividend or dividends belonging to such stockholders or owners as shall be necessary to pay any taxes levied upon their shares of stock or interests, respectively, until it shall be made to appear to such bank or its officers that such taxes have been paid; and any officer or any such bank who shall pay over or authorize the paying over of any such dividend or portion thereof, contrary to the provisions of this section shall thereby become liable for such tax, and if such tax shall not be paid, the county treasurer where such bank is located shall sell such shares or interest to pay the same like other personal property; and in case of sale, the provisions of law in regard to the transfer of stock when sold on execution shall apply to such sale.

Section 3. Assessments on shares of bank stock in banking associations heretofore made in accordance with the provisions of Section 6696 of the South Dakota Revised Code of 1919, as it then existed, and the taxes heretofore levied, paid or assessed upon such shares pursuant to such assessments, are hereby in all things legalized, ratified and confirmed.

Section 4. Whereas, this act is necessary for the support of the State Government and its existing institutions, an emergency is hereby declared to exist and the same shall go into effect on the 15th day of March, 1923.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the Governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the Secretary of State with his objections, within the time prescribed by the Constitution, has become a law without his approval.

C. E. COYNE, Secretary of State.

CHAPTER 104.

(S. B. 119)

RELATING TO COUNTY ROAD TAX LEVY

AN ACT Entitled, An Act to Amend Subdivision 4 of Section 6749 of the South Dakota Revised Code of 1919, Relating to Levy for Road Purposes.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Subdivision 4 of Section 6749 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 6749. Subdivision 4. For county roads, in addition to the

road taxes levied by the several civil townships, cities and incorporated towns, not to exceed two mills on the dollar of the assessed valuation of all taxable property within the county, including organized civil townships, cities and incorporated towns, and it shall have the entire supervision of the expenditure of such taxes; provided, it may levy a higher rate, not to exceed five mills on the dollar, if it shall have been directed to do so by a majority of all of the electors of the county:

Provided further, that within all cities and incorporated towns, twenty-five per cent (25%) of the money so raised by the levy made within said cities or towns shall be paid by the County Treasurer to the Treasurer of said city or town to be expended by the Governing Body of said city or town for bridge and street purposes within said city or town.

Approved February 15, 1923.

CHAPTER 105.

(H. B. 144)

RELATING TO STATE BOARD OF EQUALIZATION

AN ACT Entitled, An Act to Amend Section 6736 of the South Dakota Revised Code of 1919, Providing for the Equalization of Property for Taxation Purposes and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6736 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 6736 Meeting, When—Equalization—How Made. The tax commission shall sit as a state board of equalization, commencing on the first Monday of August each year. It has power and is required to equalize and to assess, if necessary, the property of any person, partnership, association, company or corporation so that it shall be assessed as required by law. It shall:

1. Equalize the assessment of land and structures thereon, separately, by adding to the aggregate value thereof, in every county in which the commission may believe the valuation to be too low, such rate per cent as will raise the same to its proper proportionate value, and by deducting from the aggregate assessed value thereof, in every county in which the commission may believe the value to be too high, such per cent as will reduce the same to its proper proportionate value. Town and city lots shall be equalized in the same manner as herein provided for equalizing lands.

2. Equalize the assessment of personal property by adding to the aggregate assessed value of any class of personal property of every county in which it believes such valuation to be too low, such rate per cent as will raise the same to its proper proportionate value, and by deducting from the aggregate assessed value of any class of personal property, in every county in which the commission may believe the valuation to be too high, such per cent as will reduce the same to its proper proportionate value.

3. Such board, in making such equalization, may add to or deduct from the aggregate assessed valuation of lands, town or city lots, and

Section 2. Section 8 of Chapter 109, Session Laws of South Dakota for the year 1919, be and is hereby amended to read as follows:

Section 8. The Tax Commission of this state shall prepare and distribute through the county auditor to the assessors a form for the listing and returns which the taxpayers are required to make, and the form shall be printed on a separate sheet, and shall be entirely distinct from the forms prepared for the listing and returns of other classes of property. The form herein required to be made shall show, each under a separate heading, the total amount in each of the following classes:

1. Money subject to check and on deposit in banks, trust companies or similar financial institutions, wherever situate.

2. Money on deposit in banks, trust companies, postal or other savings banks, or similar financial institutions, wherever the same are situate, and which is represented by certificate of deposit, cashier's checks or similar instruments.

3. Money, other than above specified, on hand or under control of the owner or his agent, whether the same is held in this state or elsewhere.

4. Promissory notes, bills of exchange, due bills, cream checks and similar evidences of indebtedness.

5. Bonds, except municipal and United States bonds.

6. Real estate mortgages upon lands situate outside of this state and amount secured thereby.

7. Real estate mortgages upon lands situate in this state and amount secured thereby.

8. Chattel mortgages upon personal property in this state or elsewhere, and the amount secured thereby.

9. Judgments in this state or elsewhere.

10. Book accounts.

11. Contracts for sale of real estate outside of this state.

12. Contracts for sale of real estate in this state.

13. Annuities, royalties, and all sums of money receivable at stated periods.

14. All claims and demands for money or other valuable thing not above enumerated.

15. Shares of stock in corporations the property of which is not assessed or taxed in this state.

The Tax Commission may include in the form such additional classes as they may deem desirable. It is expressly provided that the amounts shown under each item shall be the total amount only of property owned of the class named and shall not show the detailed items which make up such class.

The county auditors shall deliver to the assessors such forms and the assessors shall use the same, and no other forms shall be used for listing moneys and credits. Such list shall be open to the inspection of the assessors, county auditors, their deputies and clerks, the board of review, the county board of equalization and the tax commission and its secretary and clerks, but the details of the lists made by the taxpayers shall be disclosed to no other persons except by order of court, and any assessor or other person who shall disclose such details shall be liable to a fine of not less than one hundred dollars nor more than five hundred dollars. The lists shall be delivered by the assessor to the county auditor and by him preserved.

Section 3. That Section 3 of Chapter 109 of the Session Laws of 1919 be and the same is hereby amended to read as follows:

Section 3. Money and credits as the same are defined and con-

strued to mean in Section 2 shall hereafter be subject to an annual tax of four mills on each dollar and no more of the true and cash value thereof, which shall be in lieu of all other taxes. But nothing herein shall apply to money or credits belonging to banks and trust companies situated in this state, which are otherwise assessed and taxed.

Approved March 12, 1923.

CHAPTER 109.

(S. B. 296.)

RELATING TO MONEYS AND CREDITS

AN ACT Entitled, An Act to Amend Section 6 of Chapter 109 of the Session Laws of 1919, Relating to the Assessment and Taxation of Moneys and Credits and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6 of Chapter 109 of the Session Laws of 1919 be amended to read as follows:

Section 6. Moneys and Credits shall be listed and assessed in the assessment district where the owner or agent resides; of corporations, except banking as heretofore expressed, having offices or places of business in the different assessment districts of the state, shall be listed and assessed in the assessment district or districts where the offices or places of business are located and business transacted, and any money held or credit extended.

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing public institutions, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1923.

CHAPTER 110.

(S. B. 2)

REPEALING MORTGAGE REGISTRY TAX

AN ACT Entitled, An Act to Repeal Chapter 113 of the Session Laws of 1919 Relating to the Payment of Registry Tax Before Filing and Recording Real Estate Mortgages, Providing for Exemption from Further Taxation of Mortgages Upon Which a Registry Tax Has Been Paid, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Chapter 113 of the Session Laws of the State of South Dakota for the year 1919 be and the same is hereby repealed.

Section 2. All mortgages upon real property situated within this state, and the debts and obligations which they secure, shall be exempt from all taxes by the state or any other taxing district therein during

the period for which the mortgage registry tax was paid under the laws repealed by this Act.

Section 3. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved February 27, 1923.

CHAPTER 111.

(H. B. 34.)

EXEMPTION OF PERSONAL PROPERTY

AN ACT Entitled, An Act to Amend Paragraph Numbered 5 of Section 6670 of the Revised Code of 1919, as Amended by Chapter 106 of the Session Laws of 1919 Relating to Property Exempted from Taxation and Repealing Paragraphs Numbered 6 and 7 of Section 6670 of the Revised Code of 1919 as Amended by Chapter 106 of the Session Laws of 1919.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That paragraph 5 of Section 6670 of the Revised Code of 1919, as amended by Chapter 106 of the Session Laws of 1919, be amended to read as follows:

Section 6670. Paragraph 5. The personal property of each individual liable to assessment and taxation under the provisions of this chapter, of which such individual is the actual and bona fide owner, to the amount of not exceeding fifty dollars in value in household furniture and provisions: Provided, that each person shall list all his personal property for taxation, and the county auditor shall deduct, after county equalization, the amount of the exemption authorized by this subdivision of said section from the total amount of his assessment, and levy taxes upon the remainder.

Section 2. That Paragraphs Numbered 6 and 7 of Section 6670 of the South Dakota Revised Code of 1919, as amended by Chapter 106 of the Laws of 1919, be and the same are hereby repealed.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the Governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the Secretary of State with his objections, within the time prescribed by the Constitution, has become a law without his approval.

C. E. COYNE, Secretary of State.

CHAPTER 112.

(S. B. 128)

RELATING TO RAILROADS

AN ACT Entitled, An Act to Amend Sections 6600, 6602, 6603 and 6607 of the South Dakota Revised Code of 1919, Relating to the Assessment of Railroad Property.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Sections 6600, 6602, 6603 and 6607 of the South

Dakota Revised Code of 1919 is hereby amended to read as follows:

"Section 6600. Assessment, When and How Made." The tax commission shall assess the property of railroads on the seventh day of July and if the seventh day of July falls on Sunday or on a legal holiday, then the following day, each year. The ownership and valuation of the assessment shall be as of the first day of May each year, and shall be made upon the main line or lines and branches thereof and all side tracks outside the limits of cities and incorporated towns within the state, separately, and shall include the right of way, roadbed, bridges, culverts, rolling stock, depots, yards, shops, buildings, gravel or sand beds, lands for snow protection, and all other property, real and personal, used in and employed about and incidental to the actual and necessary operation and maintenance of such railroads and branches thereof. In assessing a railroad and its equipment and property, the tax commission shall consider the earning power of the property as shown by its gross and net earnings, the value of the franchises, if any, or other privileges granted by the state, if any, under which it has the right of eminent domain and the right to do business within the state, and any and all other matters necessary to enable the tax commission to make a just and equitable assessment of the value of such property. The tax commission shall determine and fix separately the aggregate value of the property described in subdivision three of the second section of this article, which is located within the limits of any city or incorporated town.

"Section 6602. Transmit Statement to County Auditor." The tax commission shall on or before the fourth Monday in August, each year, transmit to the county auditor of each county through which any railroad runs a statement showing the length of main track, of main line or lines and the branches thereof and side tracks within such county, not located within the limits of any city or incorporated town, and the assessed value per mile of such main line or lines and branches and side tracks as fixed by a pro rata distribution per mile of the assessed valuation of such property, except that part located within the limits of cities or incorporated towns, as aforesaid, and such statement shall be entered upon the proper records of the county. The tax commission shall also transmit to the city auditor of each city, and to the clerk of each incorporated town through or into which any such railroad extends, a statement showing the total assessed valuation fixed by the tax commission upon that part of such railroad property described in subdivision three of the second section of this article, which is located within the limits of such city or town, and such statement shall be entered upon the proper records of the city or town, and a transcript thereof transmitted to the county auditor of the county in which such city or town is located, to be by him listed for taxation the same as other property within such city or town assessed by the assessor thereof.

"Section 6603. Duty of Board of County Commissioners." It shall be the duty of the county auditor after receiving such statement from the tax commission to turn such statement over to the board of county commissioners, who, at its first meeting after receiving such statement, shall make and enter in the proper record an order stating and declaring the length of the main track of road, branches and side tracks and assessed valuation of such road, branches, and side tracks lying within each township and lesser taxing district in the county through or into which such road or branches thereof run as fixed by the rate of assessment per mile as made by the tax commission; and shall also enter

in the proper record the assessment made by the tax commission of the railroad property in such county located within the limits of each city or town transmitted to the city auditor or town clerk thereof, and the amounts so entered of record shall constitute the taxable value of such property for all taxable purposes; and shall transmit a copy of such order and record to the city auditor of each city, the clerk of each incorporated town or civil township and the proper officer of each lesser taxing district and also to such railroad company.

"Section 6607. Map Filed, Transfers Reported and Entry Made." Every railroad company shall keep on file, with the county auditor of each county through or into which its line or lines of railroad run, a map showing correctly the right of way, length of side tracks outside the corporate limits of cities and towns, depot grounds, yard room, gravel or sand beds, and lands for snow protection, and lands otherwise actually and necessarily used by it in the maintenance and operation of its railway at the date of filing such map showing lots or parts of lots and blocks in cities and towns and the number of acres in each government subdivision, and it shall be the duty of the county auditor to provide for the exception from assessment by any assessor of all such right of way, depot grounds, yard room, gravel or sand bed, and lands for snow protection, or land otherwise actually and necessarily used in the operation of its railway. It shall be the duty of the register of deeds of the county to notify the county auditor of any deed to any railroad company for the right of way, depot grounds, yard room, gravel or sand beds, or lands for snow protection, that may be filed in his office for record so that the same may be entered by such county auditor on such map for the purposes above mentioned.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in force and effect from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 113.

(S. B. 12)

RELATING TO TAX SALE CERTIFICATES

AN ACT Entitled, An Act Amending Section 6790 of the Revised Code of 1919, Relating to Tax Certificates.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6790 of the Revised Code of 1919 is hereby amended to read as follows:

Section 6790. The purchaser of any tract of real property sold by the county treasurer for taxes shall be entitled to a certificate describing the land so purchased, the sum paid, and stating the time when the purchaser will be entitled to a deed, which certificate shall be signed by the treasurer in his official capacity, and shall be presumptive evidence of the regularity of all prior proceedings. Such certificate shall be assignable and any assignment thereof must be acknowledged

before some officer authorized to take acknowledgments of deeds. Any assignee of such certificate acquires the lien of the taxes on the real property; provided he presents the assigned certificate to the county treasurer for entry and such county treasurer shall enter on the record of such sale the fact that the certificate has been assigned, entering the name and address of the assignee and the date when such assignment was presented for such entry. Such purchaser at tax sale or assignee of such certificate may pay any taxes levied on such real property so purchased, whether levied for any year or years previous or subsequent to such sale and still unpaid; provided, that the amount or amounts paid as subsequent taxes shall not bear interest until on and after the date when the subsequent taxes so paid would become delinquent, and shall have the same lien for such taxes paid subsequently and may add them to the amount paid by him in the purchase, provided that he shall inform the county treasurer when paying such taxes that he desires to pay them as subsequent to such certificate; and the treasurer shall make out the tax receipt and duplicate for such taxes paid as subsequent, and shall write thereon, "paid as subsequent taxes" and shall enter on the record of the original tax sale the payment of such subsequent taxes, giving the name of the person by whom paid, the date when paid, and the amount paid, and for what year such subsequent tax was levied. In all tax sales made as provided herein the treasurer shall make out the tax receipt and duplicate for the taxes of the real property mentioned in such certificate the same as in other cases, and shall write thereon "sold for taxes at public sale."

Approved February 3, 1923.

Banks and Banking

CHAPTER 114.

(H. B. 155)

RELATING TO LIMIT OF LOANS

AN ACT Entitled, An Act to Amend Section 8980 of the Revised Code of 1919, Relating to Banks and Banking, and Limiting Loans Made, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 8980 of the Revised Code of 1919 be amended as follows:

Section 8980. No individual, firm or corporation transacting a banking business in this State shall loan to any partnership or individual, including all loans made to the several members of such partnership or corporation, more than twenty per cent of the paid-up capital and surplus of such bank. And in no case shall the total liabilities of the several stockholders of any bank, including any and all liabilities of any partnership or corporation in which an active officer may be

interested, to such bank, exceed fifty per cent of the paid-up capital of such bank. But the discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial paper actually owned by the person negotiating the same, shall not be considered as money borrowed by such person.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 115.

(H. B. 58.)

RELATING TO LOANS TO STOCKHOLDERS

AN ACT Entitled, An Act to Amend Section 8981 of the Revised Code of 1919, Relating to Penalty of Bank Officers for Violation of Law Relating to Stockholders' Loans.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 8981 of the South Dakota Revised Code of 1919 be amended so as to read as follows:

Any officer, director, or employee of any state bank transacting a banking business in this State, who shall knowingly permit shareholders of such bank to become indebted at any one time to such bank in a total sum exceeding Fifty percent of the paid up capital of such bank, which indebtedness shall include any and all liabilities of any partnership or corporation in which any officer may be interested; shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$500.00, or by imprisonment in the State Penitentiary, not exceeding three years, or both such fine and imprisonment.

Approved March 2, 1923.

CHAPTER 116.

(H. B. 57.)

RELATING TO FALSE REPORTS BY BANKS

AN ACT Entitled, An Act to Amend Section 8969 of the Revised Code of 1919, Relating to Penalty of Bank Officers for Making False Reports.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 8969 of the Revised Code of 1919 be amended so as to read as follows:

Any banker, officer, director or employee of any bank, who shall subscribe to or make or cause to be made any false statement or false entry in the books of any bank, or shall subscribe to or exhibit false

papers, with intent to deceive any person authorized to examine into the affairs of such bank, or shall make, state or publish any false report or statement of any such bank, shall be deemed guilty of felony and upon conviction thereof shall be punished by a fine not exceeding \$5000.00, or by imprisonment in the State Penitentiary not exceeding Ten years, or by both such fine and imprisonment.

Section 2. Any banker, officer or employee of any bank who may be actively engaged in the management of a bank or in the administration of its affairs, who shall, with intent to deceive attest any false report or statement of any such bank shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$5,000.00, or by imprisonment in the State Penitentiary not exceeding Ten years, or both such fine and imprisonment.

Section 3. All reports of banks made by any officer thereof and submitted to the superintendent of banks by any person authorized to examine into the affairs of such bank shall be attested by one or more of the officers of said bank actively engaged in the management or employment thereof, whenever there are more than one of such officers engaged in such bank.

Approved March 2, 1923.

CHAPTER 117.

(S. B. 325.)

RELATING TO REPORTS TO SUPERINTENDENT OF BANKS

AN ACT Entitled, An Act to Amend Section 8966 of the South Dakota Revised Code of 1919, Relating to Making Publication and Forwarding of Bank Reports.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 8966 of the South Dakota Revised Code of 1919 be and is hereby amended to read as follows:

Section 8966. Called Reports—Special Reports—Publication—Forwarding. Every bank shall make to the superintendent of banks not less than three reports during each calendar year, at such time as the superintendent of banks shall require, according to the forms which he shall prescribe. Such reports shall be signed and verified by the oath or affirmation of one of the officers of such bank, and attested by at least two of the directors. Such report shall exhibit, in detail and under proper heads, the resources and liabilities of the bank, at the close of the business of any day specified by the superintendent of banks, within five days after the receipt of the call therefor. Such reports shall be published in a newspaper in the city or town in which such bank is located; provided, that in case no newspaper is published in such city or town, the report shall be published in the nearest city or town within the county in which such bank is located where a newspaper is published; and if there be no newspaper published within the county in which such bank is located, then such report shall be published at the nearest city or town within an adjoining county within the state, where a newspaper is published. Proof of publication shall be furnished to the superintendent of banks within fifteen days after receipt of the call for such report

The superintendent of banks shall also have power to call for special reports from any bank, whenever in his judgment the same is necessary to inform him fully of the condition of such bank.

Approved March 12, 1923.

Bounties

CHAPTER 118.

(H. B. 174)

RELATING TO BOUNTIES

AN ACT Entitled, An Act to Amend Sections 5907 and 5908 of the South Dakota Revised Code of 1919, as Amended by Sections 1 and 2 of Chapter 161 of the Session Laws of 1921, Relating to Bounties.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 5907 of the South Dakota Revised Code of 1919, as amended by Section 1 of Chapter 161 of the Session Laws of 1921, is hereby amended to read as follows:

Section 5907. **Bounties.** There may be paid from the county fund a bounty of ten cents (10c) for each pocket gopher, and five cents (5c) for each striped gopher or ground squirrel caught and killed within the county, and the Board of County Commissioners in any county shall also allow a bounty of not to exceed ten cents (10c) for each crow or magpie killed within the county, provided that the person entitled to such bounty shall make, as hereinafter provided, proof of destruction of such animal or bird within thirty (30) days after the same was destroyed.

Section 2. That Section 5908 of the South Dakota Revised Code of 1919, as amended by Section 2 of Chapter 161 of the Session Laws of 1921, is hereby amended to read as follows:

Section 5908. **Proof Required.** The person catching or killing any such animal or bird shall remove and present to the county auditor before whom he makes his proof both front feet and claws of each pocket gopher and full tail of each striped gopher or ground squirrel and the head and feet of each crow or magpie for which he claims the bounty, and the person claiming the bounty shall furnish written proof, under oath, that each animal or bird for which he claims the bounty, was caught or killed within the county against which he presents the claim for bounty; and the Board of County Commissioners may require, in addition to the above, any other and further proof which it deems necessary and reasonable, to show that each animal or bird for which the bounty is claimed was caught and killed within the county against which the claim is presented.

Approved March 7, 1923.

Census and Vital Statistics

CHAPTER 119.

(H. B. 26)

RELATING TO STATE CENSUS

AN ACT Entitled, An Act to Amend Section 9885 of the South Dakota Revised Code Relating to the State Census.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 9885 of the Revised Code of 1919 is hereby amended to read as follows:

Section 9885. On or before the first day of April, 1925, and at the same date every tenth year thereafter it shall be the duty of the Director of the State Census to transmit to the county auditors of the several counties a sufficient quantity of blank forms, schedules and instructions for taking the census in the several counties as provided in this article. Such schedules and forms shall provide for the enumeration of all inhabitants of the State by name, age, sex, color, ancestry and nationality, occupation, ability to read and write, whether blind, deaf, dumb, idiotic or insane, and such other information as shall appear of general interest.

Approved February 3, 1923.

CHAPTER 120.

(H. B. 41)

RELATING TO CERTIFIED COPIES OF VITAL STATISTICS

AN ACT Entitled, An Act to Amend Section 9 of Chapter 92 of the Laws of the Special Session of 1920, Relating to the Making and Furnishing Copies of Birth and Death Certificates and Abstract of Marriage, Divorce and Naturalization Records, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 9 of Chapter 92 of the Laws of the Special Session of 1920 be and is hereby amended to read as follows:

Section 9. The Director of Vital Statistics shall furnish any applicant therefor a certified copy of the record of any certificate of birth or death, or abstract of marriage, divorce or naturalization recorded under the provisions of this Act, upon the payment of a fee of one dollar for the making and certification of each certificate or abstract, to be paid by the applicant; provided, however, that no charge shall be made for certified copies of birth, death, marriage or divorce records when requested or required in pension claims of widows, or soldiers of

the Civil and Spanish American wars, and in compensation and insurance claims of widows and soldiers of the World War. Such copy of the record in the office of the Director of Vital Statistics, when certified by the Director of Vital Statistics to be a true transcript therefrom shall be prima facie evidence of the facts therein stated in all courts in this state.

Section 2. Whereas, this Act is necessary for the support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall take effect on and after its passage and approval.

Approved February 15, 1923.

Checks

CHAPTER 121.

(S. B. 255.)

RELATING TO ISSUING CHECKS WITHOUT FUNDS

AN ACT Entitled, An Act to Amend Chapter 133 of the Laws of 1919, Amending Section 4253 of the South Dakota Revised Code of 1919, Relating to the Issuing of Checks, Drafts or Orders on any Bank or Other Depository, Without Sufficient Funds to Meet the Same Upon Presentment; Making Such Acts a Criminal Offense and Providing a Penalty Therefor.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Chapter 133 of the laws passed at the Sixteenth Legislative Session, 1919, amending Section 4253 of the South Dakota Revised Code of 1919, be and the same is hereby amended to read as follows:

It shall be unlawful for any person, either for himself or as the agent or representative of another or as an officer of a corporation, to make, draw, utter, issue, or deliver any check, draft or order on any bank or depository for the payment of money or its equivalent, knowing at the time of the making, drawing, uttering, issuing or delivering of such check, draft or order as aforesaid that he has not sufficient funds on deposit in or credit with such bank or depository with which to pay such check, draft or order upon presentation.

Section 2. That any person violating any of the provisions of Section 1 of this act shall be deemed guilty of a misdemeanor if such check, draft, or order is drawn for less than twenty dollars and upon conviction shall be punished by a fine of not less than twenty-five dollars and not more than one hundred dollars or by imprisonment in the county jail for a period of not less than ten days and not more than six months, or by both such fine and imprisonment; if such check, draft or order shall be drawn for an amount of twenty dollars or more, such persons shall be deemed guilty of a felony and upon conviction shall be punished by a fine of not less than one hundred dollars and not more than five thousand

dollars, or by imprisonment in the state penitentiary for a period of not less than one year and not more than five years or by both such fine and imprisonment.

Section 3. That in any case where a prosecution is begun under this act, the defendant shall have a right, upon application made for that purpose before trial, to have said action abated by showing to the court or the judge that he has had an account in said bank upon which said check, draft or order was drawn, thirty days next prior to the time said check, draft or order was delivered, and that said check, draft or order was drawn upon said bank or depository without intent to defraud the party receiving the same, and if the court shall so find, said action shall be abated and the defendant shall be discharged upon paying into the court the amount of such check, draft or order and the costs in such case.

Section 4. **Credits Defined.** The word "credits" as used herein shall be construed to be an arrangement or understanding with the bank or depository for the payment of such check, draft or order.

Section 5. It is further provided that nothing in this act shall apply in cases where checks, drafts or orders were actually honored by the bank or banks or depository or depositories on which they were drawn.

Approved March 12, 1923.

Child Welfare Commission

CHAPTER 122.

(S. B. 69)

RELATING TO CHILD WELFARE COMMISSION

AN ACT Entitled, An Act to Amend Sections 1 and 2 of Chapter 134 of the Session Laws of 1919, Relating to Child Welfare and Providing an Appropriation Therefor.

Be It Enacted by the Legislature of the State of South Dakota:

That Section 1, Chapter 134 of the Session Laws of 1919 be amended to read as follows:

Section 1. Three citizens of the State of South Dakota, two of whom shall be women, to be appointed by the Governor to serve for terms of two years, shall constitute the Child Welfare Commission, and each shall serve without compensation.

That Section 2, Chapter 134 of the Session Laws of 1919 be amended to read as follows:

Section 2. The Child Welfare Commission shall investigate the condition of children and advise pertaining to their care and instruction; it shall examine into the conditions surrounding dependent and delinquent children and the causes of their dependency or delinquency and make such recommendations as may be fitting; it shall examine into the condition of children employed in the industries of this state and

shall advise employers pertaining to the most favorable conditions for such labor in such employment; and shall enforce the laws of the state for the protection of children employed; it shall prepare and submit the Legislature for its consideration at the next regular session a complete code of laws covering child life in the State of South Dakota with a view of vitalizing and making effective the work of such commission, and shall biennially report its doings and recommendations to the Governor, which report shall be published as are the reports of other state officers and boards.

Section 3. There is hereby appropriated out of any money in the treasury, not otherwise appropriated, the sum of five hundred dollars, or so much thereof as may be necessary in carrying out the purposes of this act during the ensuing biennium, to be paid upon the warrant of the auditor upon which vouchers duly approved by the chairman of the Child Welfare Commission.

Approved March 12, 1923.

Cigarettes

CHAPTER 123.

(H. B. 45.)

REGULATING THE SALE OF CIGARETTES

AN ACT Entitled, An Act Relating to the Sale of Cigarettes and Cigarette Papers, and Wrappers and Papers Used and Prepared for the Making of Cigarettes; Providing for Issuing Licenses for the Purpose of Making Sales Thereof and Furnishing of Bond; Providing for the Levy, Assessment, Collection and Payment of a Tax Thereon; Providing for the Regulation of Sales Thereof and Penalty for Violation of this Act; and Defining the Duties of the Food and Drug Commissioner, State Auditor and State Treasurer Imposed Under the Provisions of this Act; and Providing That any Person Violating This Act May Be Enjoined, and That Any Building or Premises Made Use of For Purposes in Violation of This Act Shall be Deemed a Nuisance and Abated by Injunction.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. No person, firm or corporation shall sell cigarettes or cigarette papers in the State of South Dakota without first obtaining a permit therefor, which said permit shall be granted and issued by the State Food and Drug Commissioner on or before July 1st of each year, and said permit shall be in force and effect for one year following the July 1st after its issue, unless sooner revoked, and shall be granted only to the person, firm or corporation owning or operating the premises from which said sale is to be made, and shall not be transferable; which permit shall have a number and show the residence and place of business of the holder. Such permit must be posted in a conspicuous place in the holder's place of business, in which place the sale of cigarettes or cigarette papers are to be made. The State Food and Drug Commissioner shall revoke the permit of any person who has

violated any of the provisions of this act, and no such permit can again be issued for a period of two years thereafter. The State Food and Drug Commissioner shall, upon the issuance or revocation of any permit hereunder, immediately notify the State Treasurer.

Section 2. No permit shall be issued until the applicant therefor shall file a bond, to be approved by the State Food and Drug Commissioner, which said bond shall be payable to the State of South Dakota, and shall be in an amount of not less than five hundred (\$500.00) dollars, and conditioned upon the faithful observance of all the provisions of this Act, including the payment of all taxes, fines, penalties and costs herein provided for. Said bond shall be signed by the obligor as principal, and by a surety company authorized to do business in this State, or by two sureties who shall qualify in double the amount of the bond, and neither of whom shall be surety on any other like bond.

Section 3. No permit shall be issued until the applicant shall have paid to the State Food and Drug Commissioner a mulct tax which shall be graduated in amount according to location as follows: In inland stores and in incorporated communities, \$5.00; in incorporated towns and in premises outside of, but within three miles of any city or incorporated town, \$10.00; in cities organized under special territorial charter, \$10.00; in cities of the second class, \$15.00; and in cities of the first class, \$20.00. The State Food and Drug Commissioner shall receipt for such payments and shall forthwith pay over all such remittances to the State Treasurer.

Section 4. Every person, partnership or corporation carrying on the business of selling or keeping for sale cigarettes or cigarette papers, or maintaining a place where such cigarettes or cigarette papers are kept with intent to sell, shall pay the mulct tax provided for in Section 3 hereof, payable on the 1st day of July in each year.

Section 5. From and after the taking effect of this Act there is hereby levied and assessed and shall be collected and paid to the State Treasurer upon all cigarettes and cigarette papers or wrappers and tubes sold in South Dakota to consumers, the following taxes, to be paid prior to or at the time of sale and delivery to the consumer:

Class A. On cigarettes weighing not more than three pounds per thousand, one mill on each such cigarette;

Class B. On cigarettes weighing more than three pounds per thousand, two mills on each such cigarette;

Class C. On cigarette papers or wrappers or any papers made or prepared for the purpose of making cigarettes made up in packages, books or sets; on each such package, book or set containing not more than fifty papers, one-half cent; containing more than fifty papers but not more than one hundred papers, one cent; containing more than one hundred papers, one-half cent for each fifty papers or fractional part thereof.

Class D. On tubes, one cent for each fifty tubes or fractional part thereof.

All cigarettes sold in this State under the provisions of this Act shall be put up in packages containing, 5, 8, 10, 12, 15, 16, 20, 24, 40, 50, 80 or 100 cigarettes each. Before being delivered to the consumer each package of cigarettes and each package, book or set of papers or of tubes, shall have securely affixed thereto a suitable stamp denoting the tax thereon, and said stamp shall be properly cancelled prior to such sale or removal for consumption, under such regulations as the State Treasurer shall prescribe.

For any violation of any of the foregoing provisions of this section, the offender, upon conviction thereof, shall be fined not less than one hundred dollars nor more than three hundred dollars and costs of prosecution, and be committed to the county jail until such fine is paid, but not exceeding six months; and all cigarettes, cigarette papers or wrappers, and papers made or prepared for the purpose of making cigarettes in his possession or in his place shall be confiscated and forfeited to the State.

It shall be unlawful for any person not authorized hereby, with intent to defraud the state, to make, alter, forge, or counterfeit any license or stamp provided for in this Act or have in possession any forged, counterfeited, spurious or altered license or stamp, knowing the same to be forged, counterfeited, spurious, or altered, and whoever is found guilty of any violation of this provision shall be fined not more than one thousand dollars (\$1,000.00) and be imprisoned in the state penitentiary not more than three years.

Section 6. The State Auditor shall prepare and have suitable stamps for use on each kind of package prescribed in Section 5 of this Act. Upon requisition from the State Treasurer, the State Auditor shall deliver to his order the stamps designated in such requisition, and shall charge the Treasurer of the State with the stamps thus delivered, and shall keep an accurate record of all stamps coming into and leaving his hands. The State Treasurer shall sell the stamps herein provided for only to dealers holding permits issued as provided in this Act, and the moneys received from the sale of said stamps shall be turned into the General Fund of the State.

Section 7. In the enforcement of this Act, the State Food and Drug Commissioner and the State Treasurer may call to their aid the Attorney General, any State's Attorney, or any peace officer. The State Treasurer is further authorized to appoint such clerks and additional help as may be needed to carry out the provisions of this Act. The Food and Drug Commissioner shall not appoint any deputy or other employee especially for the enforcement of the provisions of this Act, but the duties imposed herein upon the Food and Drug Commissioner shall be performed contemporaneously with the performance of the other duties of such Commissioner.

Section 8. Any person, firm or corporation violating any of the provisions of this Act, or maintaining a place where such cigarettes or cigarette papers are sold or kept with intent to sell in violation of the provisions of this Act, shall be deemed guilty of keeping and maintaining a nuisance, and the building or place so used for the sale or keeping for sale of cigarettes or cigarette papers, or wrappers, in violation of the provisions of this act shall be deemed to be a nuisance, and such person, firm or corporation may be enjoined and such building or place abated as a nuisance, and the procedure for the actions to enjoin and abate such nuisance, or for contempt in violating an order of injunction, shall be, so far as applicable, the same as those now provided by the laws of this State for enjoining and abating intoxicating liquor nuisances.

Approved February 27, 1923.

Common Carriers

CHAPTER 124.

(S. B. 243.)

RELATING TO TRANSPORTATION BY AUTOMOBILES

AN ACT Entitled, An Act to Regulate the Transportation of Persons and Property Both by Automobile, Jitney Busses, Auto Trucks, Auto Stage, or Other Motor Vehicle, Over the Public Highways of the State, Where Compensation for Such Transportation Is Charged, Making Such Business that of a Common Carrier Under Jurisdiction of the Board of Railroad Commissioners, Requiring a Certificate of Authority to be Secured, the Furnishing of a Bond Against Injury to Passengers or Loss or Damage to Property in Transit, Uniform System of Accounts to be Kept, Quarterly Statements Rendered, Creating a Gross Earnings Tax Providing for the Distribution of Such Tax, Revoking of Certificate of Authority for Non-Payment of Tax, Requiring Compliance With Act Before Charge for Service can be Made and Providing Penalties.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. **Auto Vehicle Transportation—Common Carriers.** All automobiles, jitney busses, auto trucks, auto stages, or other motor vehicles, propelled by steam, gas or electricity, which shall be operated for profit upon and over the public highways of this state, for the purpose of transporting persons, property or both, between designated towns, cities or other beginning or destination points in this state, under a regular or irregular schedule, are hereby declared to be common carriers, and as such are subject to control and regulation by the Board of Railroad Commissioners as in this chapter provided.

Section 2. **Regular and Irregular Schedule Defined.** "Regular Schedule" as herein used shall mean an advertised service scheduled to depart from specified towns or cities, over a regular route, at definite hours and upon specified days of the week. "Irregular Schedule" shall mean service of a somewhat irregular schedule depending upon whether there be passengers, express or freight ready for transportation.

Section 3. **Application for Certificate of Authority.** Before any person, association, partnership or corporation shall be permitted to engage in the business of transporting persons or property or both over and upon the public highways of this state by any motor vehicle, as in the foregoing sections provided, according to a regular or irregular schedule, between specified points in this state, such person, association, partnership or corporation shall first apply to the Board of Railroad Commissioners for a certificate of authority to conduct the business of such common carrier, which application shall be made in writing and accompanied by a registration fee of five (\$5.00) dollars and filed with the Board and a duplicate thereof furnished the State Highway Commission, and shall specify the following particulars: the name of applicant; points in this state between which it is proposed to operate; the number, size, and make of motor or vehicles which shall be used in such transportation business and such other reasonable information of similar character as the Board of Railroad Commissioners may require.

Section 4. Duty of Board Prior to Issuing Certificate of Authority. Upon receipt of such application, the Board of Railroad Commissioners shall, after compliance by said applicant with the conditions hereafter required, grant to such applicant a certificate of authority to conduct the business of common carrier by motor vehicle between the points along the route and according to the schedules therein designated.

Section 5. Bond and Undertaking Required. No person, association, partnership, corporation or other company of any kind shall receive a certificate of authority to operate and engage in the business of common carrier by auto vehicle upon and over the public highways of this state until such common carrier shall have furnished and filed with the Board of Railroad Commissioners a good and sufficient bond and undertaking running to the State of South Dakota, with good and sufficient sureties thereon, in the penal sum of not less than three thousand dollars and not more than fifty thousand dollars, proportioned by the Board of Railroad Commissioners according to the number of auto vehicles employed and used by such common carrier in carrying on such transportation business. Such bond and undertaking shall provide that the principal and sureties thereon shall be liable to any passenger or passengers, for damage caused by the negligence of said common carrier in the operation of its transportation equipment. Such bond shall also cover loss or damage to goods, wares or merchandise while in transit. An action may be maintained upon said bond by any passenger injured through the negligent operation by said common carrier, its agents, or servants, of its transportation equipment or by the owner or shipper of any goods, wares or merchandise lost or damaged while in transit, which action may be brought in the individual name of such passenger so injured or the owner or shipper of such goods, wares, or merchandise so lost or damaged.

Section 6. Uniform System of Accounts. It shall be the duty of the Board of Railroad Commissioners to make investigation in sufficient time before the taking effect of this act to be able to prepare and furnish to all applicants for a certificate of authority, under the provisions hereof, a uniform system of accounts and uniform quarterly reports covering the operation of such common carriers.

Section 7. Records Required to Be Kept—Inspection of Same—Quarterly Reports. Every person, association, partnership or corporation hereafter receiving a certificate of authority to conduct the business of a common carrier by auto vehicle, shall fully and faithfully keep a record of its operations in the manner and form as required in the uniform system of accounts herein provided for. Such accounts shall be at all times subject to inspection by the Board of Railroad Commissioners. On or before the 10th day of April, July, October, and January of each year, every common carrier by auto vehicle authorized to engage in such business shall file with the Board of Railroad Commissioners a report, under oath, based upon the information shown in its uniform system of accounts, which report shall designate the number of passengers carried, the rates charged and the aggregate receipts for such service, the aggregate receipts for the transportation of all goods, wares and merchandise handled, the rates charged and the aggregate weight of such merchandise transported, for each preceding three-months period together with such other reasonable information of a similar nature as the Board of Railroad Commissioners may require.

Section 8. Gross Earnings Tax—Payment Of. There is hereby created a tax of two (2) per cent upon the gross earnings of each and every common carrier by auto vehicle authorized to engage in the trans-

portation of persons and property under the provisions of this act. Such tax shall be due and payable into the state treasury on or before the 10th day of April, July, October, and January of each year, upon the gross earnings of such common carrier in its operations for the three-months period immediately prior thereto.

Section 9. "Gross Earnings" Defined. The term "gross earnings" as in this chapter used shall mean all earnings on the total business done by such common carrier by motor vehicle upon its operation within the state of South Dakota. When transportation service is rendered partly in this state and partly in an adjoining state, the common carrier shall comply with all of the provisions of this act and in making the quarterly statement herein required shall show the total business performed within the limits of this state as fully and completely and in the same manner as herein required of common carriers by auto vehicles operating wholly in this state.

Section 10. Distribution of Tax. The total gross earnings tax paid into the state treasury under the provisions of this Act, together with each registration fee of five dollars, shall be placed to the credit of the State Highway Fund to be expended for maintenance as provided by law for use of such highway funds.

Section 11. Revocation of Certificates of Authority for Non-Payment of Tax. The failure and neglect of any person, association, partnership, corporation or other company authorized under the provisions of this act to engage in the business of common carrier by motor vehicle, to pay two (2) per cent gross earnings tax as herein provided, shall be sufficient cause for the revoking of the certificate of authority granted such common carrier to engage in such business and in carrying out the provisions of this act relative to the payment of such tax it shall be the duty of the State Treasurer, on or before the fifteenth day of April, July, October, and January of each year, to certify to the Board of Railroad Commissioners the name of any person, association, partnership, corporation, or any other company of any kind which has received a certificate of authority to conduct the business of common carrier by motor vehicles upon and over the highways of this state which shall have failed and neglected to pay into the state treasury the two per cent gross earnings tax as in this act provided, and upon the furnishing of such certified list the Board of Railroad Commissioners shall, upon its own motion, make an order requiring the person, association, partnership, corporation, or other company which has failed and neglected to pay the gross earnings tax herein required, to show cause at the office of said board of Railroad Commissioners upon some specific day not less than five nor more than twenty days after service upon said delinquent, why said certificate of authority shall not be cancelled because of the non-payment of such tax. No person, association, partnership, corporation or company of any kind which shall have its certificate of authority revoked for the non-payment of its gross earnings tax, shall again be authorized to conduct such business, until such tax with interest shall have been paid.

Section 12. Rates. No person, association, partnership, or corporation, engaged in the transportation of persons or property along and upon the public highways in this state, for a compensation, where such transportation service is conducted between regular points, upon a regular or irregular schedule, shall be authorized to charge for such service unless it has complied with all other provisions of this chapter and has been regularly authorized to conduct the business of common carrier by motor vehicle.

Section 13. The Railroad Commission shall supervise and regulate all auto transportation companies, and shall promulgate such safety rules or regulations as it may deem wise or necessary to govern and control the operation of motor vehicles by auto transportation companies for the safety of the traveling public, and shall enforce the same as herein provided.

Section 14. **Penalty.** Every person and the members of every association, partnership, or corporation actively engaged in the transportation of persons or property over and upon the highways of this state as a common carrier by motor vehicle and shall have received the certificate of authority to engage in such business, who shall refuse, fail, or neglect to keep the system of uniform accounts, make the quarterly reports or who shall falsely state any matter in such reports made or who shall refuse, fail or neglect to obtain the indemnity insurance as in this act required, shall be deemed guilty of misdemeanor and upon conviction thereof shall pay a fine of not less than fifty dollars nor more than five hundred dollars, or shall be confined in the county jail for a period of not more than thirty days, or both.

Approved March 12, 1923.

Constitution

CHAPTER 125.

(S. J. R. 8.)

RECOMMENDING A CONSTITUTIONAL CONVENTION

A JOINT RESOLUTION Proposing and Recommending a Constitutional Convention for the State of South Dakota.

Section 1. Whereas, since the formation and adoption of the Constitution of the State of South Dakota the changes which have come about have so altered the political, social and industrial situation that in many respects our fundamental charter or Constitution is unworkable and impractical; Therefore,

Be It Resolved by the Senate of the State of South Dakota, the House of Representatives Concurring:

That the Legislature of the State of South Dakota recommend to the electors that a Constitutional Convention be called and held to revise the Constitution of the State of South Dakota at the next general election to be held in November, 1924, and that at said election there shall be submitted to the electors the following:

"Shall a Constitutional Convention be called, as recommended by the Legislature?"

That the Secretary of State be and is hereby directed to place said question upon the official ballot for said election in the same manner as Constitutional Amendments are submitted under the laws of this State.

Corporations

CHAPTER 126.

(S. B. 177)

DEFINING LIABILITY OF STOCKHOLDERS OF CO-OPERATIVE ASSOCIATIONS

AN ACT Entitled, An Act Defining Liability of Stockholders of a Co-operative Company.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. The stockholders of every co-operative company or association, organized under Sections 8839 to 8853, inclusive, of the South Dakota Revised Code of 1919, after the taking effect of this Act, shall be individually liable, equally and ratably, not one for another for the benefit of the creditors of such co-operative company or association to the amount of the par value of their stock, in addition to the amount originally invested in such stock. Such liability shall continue for one year after any transfer of stock, as to the affairs of the company or association at the time prior to the date of the transfer; provided, that any co-operative company or association organized before the taking effect of this Act may become subject to the provisions of this act by resolution passed by a two-thirds majority of all stockholders of any such co-operative company or association at any regular or special stockholders' meeting. All certificates of stock issued for stock subject to the liability herein provided shall have imprinted on the face thereof the following words: "This stock is assessable to the amount of the par value thereof for the benefit of creditors of this corporation."

Approved March 7, 1923.

CHAPTER 127.

(S. B. 121)

RELATING TO CO-OPERATIVE ASSOCIATIONS

AN ACT Entitled, An Act to Amend Section 8849 of the Revised Code of 1919 as Amended by Section 1, Chapter 37 of the Laws Passed at the Second Special Session of the Sixteenth Session of the Legislature of the State of South Dakota, Relating to Co-Operative Associations.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 8849 of the Revised Code of 1919 as amended by Section 1 of Chapter 140 of the Session Laws of 1919 as amended by Chapter 37 of the Laws passed at the Second Special Session of the Sixteenth Session of the Legislature of the State of South Dakota is hereby amended to read as follows:

Section 8849. Division of Profits. The directors at any regular or special meeting, shall apportion the net earnings as follows:

1st. By setting aside not less than twenty-five per cent of the net profits per annum for reserve fund until an amount has accumulated in said reserve fund of not less than fifty per cent of the paid up capital stock.

2nd. By paying interest on the paid-up capital stock not exceeding ten per cent per annum.

3rd. Then by setting aside an amount not less than one per cent nor more than five per cent of the net profits as an educational fund to be used in teaching co-operation.

4th. The balance of such net earnings may be apportioned among the stockholders or stockholders and patrons as provided in the by-laws of the association in proportion to the amount of business transacted between the association and its stockholders; or stockholders and patrons.

In productive associations such as creameries, canneries, elevators, factories and such other associations of this class dividends shall be upon raw material furnished instead of goods purchased. But in case the association is both a productive and selling concern, the distributed dividend may be on both raw material delivered and goods purchased.

Approved March 12, 1923.

CHAPTER 128.

(S. B. 113.)

REPEALING SECTION 8833 REVISED CODE, 1919

AN ACT Entitled, An Act to Repeal Section 8833 of the South Dakota Revised Code of 1919 Relating to Publication of Annual Report of Corporations for Profit.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Sections 8833 of the South Dakota Revised Code of 1919 be and the same is hereby repealed.

Approved March 9, 1923.

CHAPTER 129.

(S. B. 257.)

PERMITTING OFFICES AND MEETINGS WITHOUT THE STATE

AN ACT Entitled, An Act Amending Section 8835 of the South Dakota Revised Code of 1919, Providing for the Transaction of Their Business by Corporations at Branch Offices and Without the State; for the Appointment of Resident Agents and the Service of Process Upon Them; and for the Maintenance by Such Corporation of Certain Records at Their Domiciliary Office Within the State.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 8835 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 8835. Office Outside State, Resident Agent—Domiciliary Office. Any such corporation created under the general incorporation laws of this state may provide in its articles of incorporation for having one or more business offices without this state, at any place to be named in the articles of incorporation, and to hold any meetings of the stockholders or directors of the corporation at either of such offices so provided for; provided, however, that if such corporation shall designate in its articles, or by appointment in writing duly acknowledged and filed with the Secretary of State, the name and business address of an agent, resident within this state, such corporation may transact all of its corporate business at such branch office or offices so long as such agent shall be maintained at its domiciliary office within this state; and its main office for the transaction of business within this state, as so designated in its articles, shall be deemed to be such domiciliary office at which such agent shall be maintained. Such agent may be an officer of such corporation and service of legal process upon said agent shall constitute one of the methods of obtaining legal and valid service upon such corporation. Any corporation so transacting its business without this state shall not be required to maintain its original books and records within this state nor hold any meetings of stockholders or directors therein, nor publish annual reports in this state, provided, such corporation shall at all times maintain, at such domiciliary office, attested copies of all minutes of all meetings of its stockholders and directors and record of its stockholders, and shall, annually and before the 20th day of January, deposit in such domiciliary office and with its resident agent an annual report which shall state the amount of capital stock and the amount thereof actually paid in, the amount and nature of its indebtedness and the amounts due the corporation, the number and amount of dividends and when paid and the net amount of profits.

Section 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 9, 1923.

CHAPTER 130.

(S. B. 16)

RELATING TO NOTES GIVEN FOR CORPORATE STOCK

AN ACT Entitled, An Act Making Certain Notes, Contracts, or Other Obligations in Writing Non-Negotiable, Providing for Their Being So Marked, and Providing a Penalty for Violation Thereof.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Every note, contract or other obligation in writing, given in whole or in part for capital stock in any corporation, is non-negotiable, and shall have written or printed therein that the same is given for capital stock in a corporation and is non-negotiable.

Section 2. Any person who takes or receives any note, contract or other obligation in writing, either in whole or in part for capital stock in a corporation, without having written or printed therein, that said note, contract or obligation was given for capital stock in a corporation and is non-negotiable, is guilty of a misdemeanor, and upon

conviction thereof shall be punishable by a fine of not less than Two Hundred Fifty Dollars (\$250.00), and not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail not more than one (1) year, or by both such fine and imprisonment.

Section 3. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Approved February 5, 1923.

CHAPTER 131.

(H. B. 81.)

RELATING TO CO-OPERATIVE ASSOCIATIONS

AN ACT Entitled, An Act to Amend Section 8844 of the South Dakota Revised Code of 1919, as Amended by Section 1, Chapter 153 of the Session Laws of 1921, Relating to the Limitation on Ownership of Shares in and the Investment of the Capital of Co-operative Associations, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 8844 of the South Dakota Revised Code of 1919, as amended by Section 1, Chapter 153 of the Session Laws of 1921, be and the same is hereby amended to read as follows:

Section 8844. **Limitations on Ownership of Shares.** Except as otherwise provided in this Chapter, no stockholder in any such association shall be entitled to more than one vote nor hold shares of a greater par value than one thousand dollars (\$1,000.00), in such association having a par value capital of one hundred thousand dollars (\$100,000.00) or less or hold more than one per cent (1%) of the par value capital stock of such association having a par value capital of more than one hundred thousand dollars (\$100,000.00); provided, that in associations having a capital stock of more than five hundred thousand dollars (\$500,000.00), each stockholder shall be entitled to as many votes as he has shares of stock.

Section 2. Whereas, this Act is necessary for the support of the State government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall take effect on and after its passage and approval.

Approved March 2, 1923.

Courts

CHAPTER 132.

(H. B. 184)

PROVIDING FOR THREE JUDGES IN SECOND CIRCUIT

AN ACT Entitled, An Act to Provide an Additional Judge for the Second Judicial Circuit.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That there shall be three Judges of the Circuit Court of the Second Judicial Circuit, and the vacancy in the office of the Judges of said Circuit Court created by the provision hereby made for an additional Judge for said Court in said Circuit shall be filled by appointment by the Governor, and such appointee shall hold the office until his successor is elected at the next general election at which Circuit Judges for said Circuit shall be elected as provided by law, and has qualified; provided, however, that not more than two of the Judges of said Circuit Court shall be electors of the same county at the time of their election or appointment. The discharge of the duties of the offices shall be apportioned by said Judges by agreement among them, and in case of their failure so to agree then the presiding Judge of the Supreme Court shall from time to time direct.

Section 2. That all Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

Approved February 27, 1923.

CHAPTER 133.

(H. B. 142.)

TERMS OF COURT, THIRD CIRCUIT

AN ACT Entitled, An Act to Amend Section 5172 of the South Dakota Revised Code of 1919, as Amended by Chapter 174 of the Session Laws of 1921, Relating to the Boundaries and Terms of Court of the Third Judicial Circuit.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 5172 of the South Dakota Revised Code of 1919, as amended by Chapter 174 of the Session Laws of 1921, be amended to read as follows:

Section 5172. **Third Circuit.** The Third Judicial Circuit shall consist of the Counties of Brookings, Clark, Codington, Deuel and Hamlin. Regular terms of Court shall be held annually in each of said Counties as follows:

Brookings, on the Third Tuesday in January, the Fourth Tuesday in May and the Third Tuesday in September.

Clark, on the Second Tuesday in May and the First Tuesday in October.

Codington, on the Second Tuesday in March, the Second Tuesday in July and the Second Tuesday in November.

Duel, on the First Tuesday in February and the Third Tuesday in June.

Hamlin, on the Third Tuesday in February and the Fourth Tuesday in October.

Approved March 6, 1923.

CHAPTER 134.

(H. B. 268)

PROVIDING FOR TWO JUDGES IN THIRD CIRCUIT

AN ACT Entitled, An Act to Provide for an Additional Judge for the Third Judicial Circuit.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That there shall be two Judges of the Circuit Court of the Third Judicial District and the vacancy in the office of the Judge of the said Circuit hereby created by the provision hereby made for an additional Judge for the said Court in said Circuit shall be filled by appointment by the Governor, and such appointee shall hold the office until his successor is elected at the next general election at which Circuit Judges for the said Circuit shall be elected as provided by law, and has qualified; provided, however, that the two Judges of the said Circuit shall not be electors of the same county. The discharge of the duties of their offices shall be apportioned by the said Judges by agreement between them and in case of their failure so to agree, then as the presiding Judge of the Supreme Court shall from time to time direct.

Section 2. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Approved February 27, 1923.

CHAPTER 135.

(S. B. 225.)

PROVIDING FOR TWO JUDGES, FIFTH CIRCUIT

AN ACT Entitled, An Act to Provide an Additional Judge for the Fifth Judicial Circuit.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There shall be two judges of the circuit court of the Fifth Judicial Circuit and a vacancy in the office of the judge of the circuit

court of said circuit is hereby created by the provisions made herein for an additional judge of said court and said circuit. Such vacancy shall be filled by appointment by the Governor and such appointee shall hold office until his successor is elected at the next general election at which circuit judges for the different circuits shall be elected and qualified as provided by law. The discharge of the duties of their office shall be apportioned between said judges by agreement and in case of their failure so to agree, then by the presiding judge of the supreme court.

Approved March 6, 1923.

CHAPTER 136.

(S. B. 97)

RELATING TO BOUNDARIES AND TERMS OF COURT IN NINTH CIRCUIT AND PROVIDING AN ADDITIONAL JUDGE

AN ACT Entitled, An Act to Provide for an Additional Judge for the Ninth Judicial Circuit, Adding the County of Hand to Said Circuit and Fixing Terms of the Circuit Court Therein.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. There shall be two judges of the Circuit Court of the Ninth Judicial Circuit and the vacancy in the office of Judge of the Circuit Court of said Circuit hereby created by the provision hereby made for an additional Judge of said court in said Circuit shall be filled by appointment by the Governor and such appointee shall hold office until his successor is elected at the next general election at which Circuit Judges for the different circuits shall be elected as provided by law and has qualified. Provided, however, that the two judges of the said Circuit shall not be electors of the same county, but neither of said Judges shall lose his legal residence in the County of which he shall be a resident and an elector at the time of his appointment or election, if he shall thereafter during his term of office, or part thereof, actually reside in some other county in the said circuit. The discharge of the duties of their offices shall be apportioned by the said Judges by agreement between them and in case of their failure so to agree then as the presiding Judge of the Supreme Court shall from time to time direct.

Section 2. The county of Hand is hereby detached from the Sixth Judicial Circuit and added to and included within the Ninth Judicial Circuit.

Section 3. That all actions, causes, matters and proceedings pending in the Circuit Court of the Sixth Judicial Circuit of the State of South Dakota within and for the County of Hand affected by this act shall be considered upon the going into effect of this act as pending in the Circuit Court of the Ninth Judicial Circuit of the State of South Dakota within and for the county of Hand, and all motions, pleading, orders, judgments and decrees made and entered thereafter in such actions, causes, matters and proceedings shall be entitled in the said Ninth Judicial Circuit, and the records and files of said county of Hand in said Sixth Judicial Circuit shall have the same force and effect in the said Ninth Judicial Circuit as though they had been originally made or entered therein.

Section 4. Terms of the Circuit Court shall be held in each year in said County of Hand on the Fourth Monday in March, and the second Monday in September.

Section 5. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Approved February 15, 1923.

CHAPTER 137.

(H. B. 16)

TERMS OF COURT, TENTH CIRCUIT

AN ACT Entitled, An Act to Amend Section 5179 Relating to Boundaries and Terms of Court in the Tenth Judicial Circuit.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Section 5179 of the South Dakota Revised Code of 1919 be and is hereby amended to read as follows:

Section 5179. **Tenth Circuit.** The Tenth Judicial Circuit shall consist of the counties of Campbell, Edmunds, Faulk, McPherson, Potter and Walworth. Regular terms of court shall be held annually in each of said counties as follows:

Campbell, on the third Tuesday in June and the third Tuesday in October.

Edmunds, on the third Tuesday in May and the second Tuesday in January.

Faulk, on the first Tuesday in May and the first Tuesday in December.

McPherson, on the first Tuesday in June and the third Tuesday in November.

Potter, on the first Tuesday in March and the fourth Tuesday in October.

Walworth, on the third Tuesday in March and the first Tuesday in October.

Approved January 27, 1923.

CHAPTER 138.

(H. B. 119)

TERMS OF COURT, ELEVENTH CIRCUIT

AN ACT Entitled, An Act to Amend Section 5180 of the South Dakota Revised Code of 1919, Relating to Terms of the Circuit Court in the Eleventh Judicial Circuit.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 5180 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 5180. Eleventh Circuit. The Eleventh Judicial Circuit shall consist of the counties of Bennett, Gregory, Jackson, Jones, Lyman, Mellette, Tripp, the unorganized county of Todd attached to Tripp, and the unorganized county of Washabaugh attached to Jackson. Regular terms of court shall be held annually in each of said counties as follows:

Bennett, on the third Tuesday in May and the third Tuesday in November.

Gregory, on the second Tuesday in April and the third Tuesday in October.

Jackson, on the first Tuesday in March and the first Tuesday in September.

Jones, on the third Tuesday in March and the third Tuesday in September.

Lyman, on the fourth Tuesday in May and the fourth Tuesday in November.

Mellette, on the first Tuesday in May and the first Tuesday in November.

Tripp, on the first Tuesday in February, the second Tuesday in June and the first Tuesday in October.

Approved February 27, 1923.

CHAPTER 139.

(S. B. 247)

RELATING TO HOLDING COURT BY TWO JUDGES IN SAME COUNTY OR CIRCUIT

AN ACT Entitled, An Act Authorizing Two or More Circuit Court Judges to Hold Court at the Same Time in Any County or Circuit in the State Under Rules Prescribed by Supreme Court.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. It shall be lawful for any two or more Circuit Court Judges to hold court at the same time in any county or circuit in this state under such rules and regulations as the Supreme Court may prescribe.

Section 2. All Acts and parts of Acts contrary to the provisions of this Act are hereby repealed.

Approved March 8, 1923.

CHAPTER 140.

(S. B. 80.)

ACTIONS TO DETERMINE BOUNDARY LINES

AN ACT Entitled, An Act Relating to the Locating, Establishing and Marking of Land Boundaries, and Providing a Procedure by Action in the Circuit Court Therefor.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Action to Determine Boundary Lines. An action may be

brought in the Circuit Court by any person owning land or any interest therein, against the owner or persons interested in adjoining land, to have the boundary lines thereof established; and when the boundary lines of two or more tracts depend upon any common point, line or landmark, an action may be brought by the owner or any person interested in any of such tracts, against the owners or persons interested in the other tracts, to have all of such boundary lines established. The court shall determine any adverse claims in respect to any portion of the land involved which it may be necessary to determine for a complete settlement of the boundary lines and the marking thereof, and may order a survey to be made by a competent surveyor of such boundary lines between such lands; and it shall make such order respecting the costs and disbursements, including the costs and expenses of a survey thereof and of the establishing any markings of such boundaries, between the parties to such action as it shall deem just.

Section 2. Pleadings, Procedure, Additional Parties. Such actions shall be governed by the general rules relating to pleadings, practice and procedure in civil actions, as near as may be, except as herein otherwise provided. When in any such action it appears to the court that any owner, lienholder, or person interested in any of the tracts involved ought, for a full settlement and adjudication of all the questions involved, to be made a party, the court shall stay the proceedings in said action and order that they be made parties defendant and be served with the summons therein.

Section 3. Judgment, Landmarks. Upon the trial of said action, the court shall make its judgment locating and defining the boundary lines involved by reference to well-known permanent landmarks, if any there be, or if none, then to such landmarks as may be placed or established for that purpose by the surveyor engaged in such work, and if it shall be deemed for the interest of the parties, after the entry of judgment the court may order a competent surveyor to establish and mark such boundaries by means of a stone or concrete block containing at least one cubic foot and planted in the earth at least eighteen inches deep from the top thereof, at the corners or boundaries of such lands, or if it is impossible or impracticable to place the same at the true and exact points where the same would otherwise be placed, then at the next nearest convenient point thereto, with the course and distance from the true and exact point plainly marked thereon, and in accordance with the order or judgment, and from which future surveys of the land and boundaries embraced therein and adjoining lands and boundaries shall be made. Such landmarks so established, located and planted in the earth shall have distinctly cut and marked thereon the words "Judicial Landmark" or "J. L." with the date that it was so placed and the name or initial letters of the name of the surveyor who placed the same. The surveyor shall make a full and complete report of his action to the court, and therein accurately describe the landmarks so placed, and define their location as nearly as practicable.

Approved March 2, 1923.

CHAPTER 141.

(S. B. 87)

RELATING TO ACTIONS AGAINST THE STATE

AN ACT Entitled, An Act to Amend Chapter 156 of the Session Laws of South Dakota for 1919, Relating to Actions Against the State of South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

That Chapter 156 of the Session Laws of South Dakota for 1919 be and it is hereby amended to read as follows:

Section 1. That in any and all actions to determine adverse claims to real or personal property or involving the possession of real or personal property, or to foreclose mortgages or other liens upon real or personal property, or to partition the same, the State of South Dakota may be sued and made defendant in the courts of this state.

Section 2. When the State of South Dakota is so made defendant, service shall be made upon it by the service of a copy of the Summons and complaint upon the Attorney General, who shall represent the state in the action and protect its rights and interest, if any, it has in said real or personal property and he may require the State's Attorney of the County where said property is situated to assist him in such litigation.

Approved February 15, 1923.

CHAPTER 142.

(S. B. 72)

RELATING TO ATTACHMENT

AN ACT Entitled, An Act to Amend Section 2432 of the South Dakota Revised Code of 1919, Relating the Grounds Upon which Warrant of Attachment May Issue.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 2432 of the South Dakota Revised Code of 1919 is hereby amended to read as follows:

Section 2432. **When Property May Be Attached.** The plaintiff at the time of issuing the summons or at any time thereafter, may have the property of the defendant attached, in the manner hereinafter prescribed, as security for the satisfaction of such judgment as the plaintiff may recover, in any of the following cases:

1. When the defendant is a corporation and has no officer, agent or attorney upon whom the summons can be served within this state;

2. When the defendant is not a resident of this state;

3. When the defendant has departed from this state with intent to defraud or delay his creditors or to avoid the service of summons or keeps himself concealed therein with like intent;

4. When the defendant, either person or corporation, has removed or is about to remove any of his or its property from this state, with intent to defraud or delay his or its creditors;

5. When the defendant, either person or corporation, has secreted, incumbered, transferred or otherwise disposed of, or is about to secrete, incumber, transfer or otherwise dispose of any of his or its property with like intent; or,

6. When the debt upon which the action is founded was incurred for property obtained under false pretenses;

7. In an action to recover purchase money, for personal property sold to the defendant, an attachment may be issued and levied upon such property.

Section 2. For the purposes of this section an action shall be deemed commenced when the summons is issued; provided, however, that personal service of such summons shall be made or publication thereof commenced within thirty days.

Approved February 15, 1923.

CHAPTER 143.

(H. B. 193)

RELATING TO CHAMBERS OF CIRCUIT JUDGE

AN ACT Entitled, An Act Requiring the Boards of County Commissioners Under Certain Conditions to Provide Circuit Court Judges With Chambers and to Furnish Same at Places Other Than the County Seat.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. It shall be the duty of the Board of County Commissioners in every county in this State to provide the Circuit Judge of the Judicial Circuit of which such county forms a part when such Circuit Judge shall be a legal resident of such county but not residing at the county seat with suitable and sufficient quarters and equip the same for the transaction of its business in chambers at a place other than the county seat of such county but within said county where such Judge resides; and providing further, that no such Circuit Court chambers shall be so provided by any county except in a city or town located on a line of railroad within such county where suitable and adequate room or rooms may be obtained at the lowest reasonable rental therefor, not exceeding in any case the monthly rental charge of Fifty Dollars (\$50.00) per month for room or rooms, heat and light.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved February 26, 1923.

CHAPTER 144.

(S. B. 13)

RELATING TO CLERK'S FEES

AN ACT Entitled, An Act to Amend Section 6024 of the Revised Code of 1919, as Amended by Chapter 135 of the Session Laws of 1919, Relating to Fees, Commissions and Per Diem of the Clerk of Courts.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6024 of the Revised Code of 1919 as amended by Chapter 135 of the Session Laws of 1919 be and the same is hereby amended to read as follows:

"Section 6024. Fees, Commissions and Per Diem." The Clerk of Courts shall be required to charge and collect the following fees, commissions and per diem:

For probate of an estate valued at less than \$1,000.00, seven dollars.

For probate of an estate of the appraised value of from one thousand to ten thousand dollars, twelve dollars; for an estate of the appraised value of from ten thousand dollars to fifty thousand dollars, seventeen dollars and fifty cents; for an estate of the appraised value of from fifty thousand dollars to one hundred thousand dollars, twenty dollars; for an estate of the appraised value of over one hundred thousand dollars, twenty-five dollars; for every sale of either personal or real property there shall be added to the above amount three dollars upon the filing of the petition for sale of property.

For probating foreign estates, that is, estates in which certified copies are filed from proceedings had in other states, fifteen dollars. A fee of three dollars to be added upon the filing of a petition to sell either personal or real property.

For partitioning an estate a fee of 10c for filing of every paper, and 15c per folio for recording all instruments required by law to be recorded. Five dollars to be paid on the filing of petition to partition and the balance, if any, upon the filing of the order partitioning the estate.

For cases to determine amount of inheritance tax in estates in which real and personal property is transferred in contemplation of death, one dollar and fifty cents. If in such cases it is necessary for the Tax Commission to require citation to issue, fee of \$1.00 for original citation and 25c for copies of citation served.

Guardianship actions up to granting of Letters of Guardianship, three dollars. Thereafter for filing of necessary reports, orders, notices and vouchers each year, the sum of two dollars.

Adoption cases including two certified copies of Order of Adoption if wanted, two dollars and fifty cents.

For cases tried to the jury and including entering case on Court calendar, swearing of jury, witnesses and bailiffs and filing all necessary instruments pertaining to the case, six dollars. Three dollars to be paid when case is started and three dollars when case is reached for trial and before calling a jury.

For cases tried to the Court including the swearing of witnesses and entering case on Court calendar and filing and entering of all necessary instruments pertaining to the action, five dollars. Three dollars of this amount to be paid when action is started and two dollars when case is reached for trial.

For all service connected with the preparation of a settled record, and transmission of papers to the Supreme Court and to include the filing of stipulations, stay orders, notice of appeal and undertaking and the opinion, decision and judgment of the Supreme Court, etc., five dollars.

Default in cases appealed to the Supreme Court from the Circuit Court, which are reversed by the Supreme Court and remanded to the lower court for further proceedings, five dollars. This fee to be paid by the party desiring case placed on Court calendar for trial. Unless fee is paid eight days before the opening of term case shall not be entered on the Court calendar for trial. The Clerk shall not file or enter anything of record other than the decision and opinion and judgment of the Supreme Court until fee is paid.

Confession of judgment, two dollars.

Default judgments, three dollars.

Divorce actions including one certified copy of decree, six dollars. Defendant to pay upon filing of answer if case be contested, three dollars.

Default foreclosure actions, seven dollars. Same to include issuing and making necessary entry on return of execution and all papers in connection with sale of property if one is held.

Restraining foreclosure by advertising, one dollar and fifty cents.

Default actions to quiet title to real property including a certified copy of decree, six dollars.

For default cases involving garnishment proceedings, four dollars.

For default warrant of attachment case, five dollars.

For dissolution of corporations, including two certified copies of decree, six dollars.

For cases to discharge mortgages in Circuit Court where case is not contested, three dollars.

For making copies of any record or paper, per folio, fifteen cents, but when carbon copies of the original record or paper are furnished by the applicant only the usual charge for a certificate shall be made. Provided, however, that no charge will be made for certified copies of birth, death, marriage, adoption, divorce or guardianship records when requested or required in pension claims of widows of soldiers of the Civil and Spanish American wars and in compensation and insurance claims of widows and soldiers of the World War.

For certificate attached to probate of will, twenty-five cents.

For searching the records or files of his office, for each year, twenty-five cents.

For a certified or exemplified copy of any record or paper in his office, each folio, fifteen cents.

For filing and docketing Notice of Attorney's Lien, thirty-five cents.

For filing and entering satisfaction of judgments and mechanics' liens, thirty-five cents.

For transcript of judgment, one dollar.

For filing and docketing transcript of judgment, against the first debtor, sixty cents, and for each additional debtor, twenty-five cents.

For filing and docketing a mechanics lien against the first debtor, sixty cents, and for each additional debtor, twenty-five cents.

For issuing, docketing and entering return on execution, one dollar and seventy-five cents.

For approving bonds for notarial applications or other miscellaneous bonds, fifty cents.

For issuing marriage license and recording return thereon, one dollar and twenty-five cents, to be paid by the party applying for license. For marriage certificate or certified copy of return, one dollar.

For certificate relating to mechanics lien, twenty-five cents.

For issuing any process, commission or writ, one dollar.

For every certificate, twenty-five cents.

For filing, docketing and keeping a miner's lien, two dollars.

For receiving, keeping and paying out money in pursuance of any statute or order of Court, one per cent on the amount so received, kept and paid out.

The Clerk of Courts shall require all fees to be paid in advance, except as otherwise provided for in this Act.

Approved February 19, 1923.

CHAPTER 145.

(H. B. 331.)

ADJOURNMENT OF HEARING IN COUNTY COURT

AN ACT Entitled, An Act Providing for Orders of Adjournment, and the Effect Thereof in County Court.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. In any case where by order of the County Court a time has been fixed for any proceeding or hearing in said court and notice shall have been given thereof, the Court may make an order of adjournment upon said hearing or proceeding and the entry thereof shall be sufficient notice of such hearing or proceeding at the time fixed by such order.

Approved March 9, 1923.

CHAPTER 146.

(S. B. 313.)

RELATING TO PROCESS AND PROCEDURE IN COUNTY COURTS

AN ACT Entitled, An Act Relating to the Service of Summons, Procedure and Notices in County Court.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. **Summons and Garnishee Summons—Service.** The summons in the county court shall require the defendant to serve a copy of his answer within ten days after the service of the summons, exclusive of the day of service. The summons shall be served as summons are served in the circuit court; provided that when the action is brought upon a joint contract, obligation or liability of two or more persons, who at the time of issuing of the summons, or during the pendency of the action in different counties, and the summons has been served on a defendant

within the county wherein the action is brought, it may be served on any defendant outside of said county; but in an action upon a promissory note, the defendant served within the county where the action is brought must have been a party to the note when first delivered. Provided a defendant who is a resident of the county where the action is brought may be served outside the county in any case.

The garnishee summons shall be substantially in the form provided in Section 2455 of the South Dakota Revised Code of 1919, except that the garnishee defendant shall be required to answer and make disclosure thereunder within ten days after the service thereof instead of thirty as provided therein.

The period for the publication of summons shall be two successive weeks.

Section 2. Procedure Same as in Circuit Court. As to civil actions in the county court, unless otherwise specially provided, the process, pleadings and procedure, the form, force and effect of its orders and judgments, the duties and fees of the clerk of courts and the costs and disbursements shall be the same as in the circuit court provided that in all actions wherein the sum or damage claimed or the value of the property involved does not exceed one hundred dollars, the prevailing party shall be entitled to costs, disbursements and attorney fees as in justice courts, except that in lieu of justices' fees the clerk's fees shall be the same as in the circuit court, and the per diem of witnesses shall be two dollars, provided, the attorney fee in any default case shall not exceed five dollars. If a defendant shall settle the action before he has appeared therein, he shall not be liable for any costs except the fees for the service of the summons or other process, and such fees of the clerk as may have been incurred; provided further, that except as to sales under executions and as otherwise specially provided, the time within which pleadings may be served and other acts performed shall be one half the time required in the circuit court, but in no case less than five days. And except that in garnishment actions in County Courts the time in which the several acts shall be done as provided in Sections 2456, 2460, 2461, 2464 and 2466 shall be ten days instead of thirty days as therein provided. Executions shall be returnable within thirty days from the date of issue, and may be twice extended by the clerk for periods of thirty days each.

Approved March 12, 1923.

CHAPTER 147.

(S. B. 9)

RELATING TO COURT REPORTERS

AN ACT Entitled, An Act to Amend Section 5187 of the Revised Code of 1919, Relating to Shorthand Court Reporters, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 5187 of the Revised Code of 1919 be amended to read as follows:

Section 5187. Each Judge of the Circuit Court is authorized to appoint one or more Shorthand Reporters who shall be well skilled in the art of stenography and competent to perform the duties required of him,

and where more than one reporter is so appointed only one per diem fee shall be allowed, and that to the reporter who is in actual attendance upon the Court, under the direction of the Judge.

Section 2. Whereas, this act is necessary for the immediate support and preservation of the State Government and its existing public institutions, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved January 20, 1923.

CHAPTER 148.

(H. B. 146.)

RELATING TO EXEMPTIONS FROM EXECUTION

AN ACT Entitled, An Act to Amend Section 2661 of the Revised Code of 1919, of the State of South Dakota, Providing for the Exemption of the Proceeds of Life Insurance.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 2661 of the Revised Code of 1919, of the State of South Dakota, be amended so as to read as follows:

Section 2661. **Proceeds of Life Insurance.** The proceeds of any insurance upon the life of any person, residing in this state at the time of his death and who leaves a surviving widow, husband, or minor child or children, payable upon his death to his order or to the order of his assigns, estate, executor or administrator, and not assigned to any other person, shall, to any amount not exceeding Five Thousand Dollars (\$5,000.00) inure to the use of such surviving widow, husband, minor child or children; and to such amount shall not be subject to the payment of any debt of such decedent, or of such surviving widow, husband, minor child or children.

Approved March 12, 1923.

CHAPTER 149.

(S. B. 26)

RELATING TO ANSWER OF GARNISHEE

AN ACT Entitled, An Act to Amend Section 2465 of the South Dakota Revised Code of 1919, Relating to Disclosures of Garnishees.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 2465 of the South Dakota Revised Code of 1919, be and the same is hereby amended to read as follows:

Section 2465. **Answer of Corporation.** The answer of a corporation summoned as a garnishee may be made by any officer thereof, or by any authorized agent or attorney, who shall have knowledge of the facts; and of any other garnishee by any authorized agent or attorney who shall have knowledge of the facts. Provided, however, that such answer or disclosure shall not be made upon information and belief.

Approved February 17, 1923.

CHAPTER 150.

(H. B. 297.)

PROVIDING FOR ALTERNATE JURORS IN FELONY TRIALS

AN ACT Entitled, An Act Providing for One or Two Alternate Jurors in Felony Trials.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. **Alternate Jurors—How Chosen. Rights and Duties of Alternate Jurors.** Whenever, in the opinion of a judge of a court of record about to try a defendant against whom has been filed any indictment or information for a felony, the trial is likely to be a protracted one, the court may cause an entry to that effect to be made in the minutes of the court and thereupon, immediately after the jury is impaneled and sworn, the court may direct the calling of one or two additional jurors, in its discretion, to be known as "alternate jurors." Such jurors must be drawn from the same source, and in the same manner, and have the same qualifications as the jurors already sworn, and to be subject to the same examination and challenges; provided, that the prosecution shall be entitled to one, and the defendant to two, peremptory challenges to such alternate jurors. Such alternate jurors shall be seated near, with equal power and facilities for seeing and hearing the proceedings in the case, and shall take the same oath as the jurors already selected, and must attend at all times upon the trial of the cause in company with the other jurors; and for a failure so to do are liable to be punished for contempt. They shall obey the orders of and be bound by the admonition of the court upon each adjournment of the court; but if the regular jurors are ordered to be kept in the custody of the sheriff during the trial of the cause, such alternate jurors shall also be kept in confinement with the other jurors; and except, as hereinafter provided, shall be discharged upon the final submission of the case to the jury. If, before the final submission of the case, a juror die, or become ill so as to be unable to perform his duty, the court may order him to be discharged and draw the name of an alternate, who shall then take his place in the jury-box, and be subject to the same rules and regulations as though he had been selected as one of the original jurors.

Approved March 6, 1923.

CHAPTER 151.

(S. B. 52)

PERMITTING VERDICT IN CIVIL CASES BY FIVE SIXTHS OF THE JURY

AN ACT Entitled, An Act to Amend Section 2515 of the South Dakota Revised Code of 1919, Relating to Verdicts in Civil Cases.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 2515 of the South Dakota Revised Code of 1919 be and is hereby amended to read as follows:

Section 2515. **Verdict—How Received.** Except in the cases provided for in the succeeding section, when the jury have agreed upon their verdict, they must be conducted into court, their names called by the clerk, and the verdict rendered by their foreman. The verdict must be in writing, signed by the foreman, and must be read by the clerk to the jury, and the inquiry made whether it is their verdict. If three or more jurors disagree, they must be sent out again. If ten of the jury agree to the verdict, it shall be the verdict of the jury and so recorded, and if neither party requires the jury to be polled, the verdict is complete, and the jury discharged from the case. Either party may require the jury to be polled, which is done by the court or clerk asking each juror if it is his verdict. If more than two answer in the negative, the jury must again be sent out.

Approved February 17, 1923.

CHAPTER 152.

(S. B. 116)

RELATING TO APPEALS FROM MUNICIPAL COURTS

AN ACT Entitled, An Act to Amend Section 2250 of the South Dakota Revised Code of 1919, As Amended by Chapter 279 of the Session Laws of the State of South Dakota for the Year 1919, Relating to Appeals from Judgments Entered in Municipal Courts.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 2250 of the South Dakota Revised Code of 1919, as amended by Chapter 279 of the Session Laws of the State of South Dakota for the year 1919, be and the same is hereby amended to read as follows:

"Section 2250 **Appeals.**" Appeals may be taken from the municipal to the Supreme Court in the same cases, in the same manner, within the same time and with the same effect as appeals from the Circuit to the Supreme Court, and shall be governed by the same provisions of law.

Section 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved February 19, 1923.

CHAPTER 153.

(S. B. 8)

POWER TO SUSPEND SENTENCES AND TO PAROLE

AN ACT Entitled, An Act to Amend Sections 4968 and 4969 of the South Dakota Revised Code of 1919 Relative to Powers of Courts to Suspend Sentence and Parole Defendants Convicted of Crime.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 4968 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 4968. All Courts, having jurisdiction to try offenses under the laws of the state, and the judges thereof, shall have power to suspend sentences of persons convicted of crime under the laws of this state during good behavior, subject to such conditions as the court or judge thereof may impose. Provided, however, that this section shall apply only to such persons as are convicted of crime for the first time and no others. Further provided, that this section shall in no case apply to the jail sentence of persons convicted under the intoxicating liquor laws or prohibitory laws of the state.

Section 2. That Section 4969 of the South Dakota Revised Code of 1919 be and hereby is amended to read as follows:

Section 4969. The judge of any court, having jurisdiction to try an offense, where the sentence does not exceed one year, shall have power to parole the defendant during good behavior and under such conditions as the judge may impose; provided, however, that this section shall apply only to such persons as are convicted for the first time and no others. Further provided that this section shall in no case apply to the jail sentence of persons convicted under the intoxicating liquor laws or prohibitory laws of the state.

Approved February 27, 1923.

CHAPTER 154.

(H. B. 264)

PROVIDING FOR TAXING COSTS IN CRIMINAL CASES

AN ACT Entitled, An Act Providing for Judgment for Costs of Prosecution Against Defendants Convicted of Crime in Any Court.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. In all criminal cases in any court if the defendant be convicted, the cost of prosecution may be taxed against him and enforced as other judgments in criminal causes.

Approved February 27, 1923.

CHAPTER 155.**(H. B. 112)****RELATING TO TAXATION OF COSTS IN ACTIONS AGAINST SCHOOL OFFICERS****AN ACT** Entitled, An Act to Provide for the Taxation of Costs in Actions Against School Officers.*Be It Enacted by the Legislature of the State of South Dakota :*

Section 1. If a school teacher employed in any public school in this State under a prescribed contract signed by a majority of the governing body of said school, shall after the end of any month of employment under the terms of said contract, request any member of such board, or officer thereof, to issue, sign or register a warrant for such salary as may be due under the terms of said contract, and if said member or officer shall refuse or neglect to issue, sign or register such warrant, such member or officer shall not avoid the cost in any action thereafter brought against him, and the court may in its discretion, if the plaintiff succeeds, tax in addition to the ordinary costs an attorney's fee for plaintiff's attorney, not exceeding One Hundred Dollars.

Approved March 7, 1923.

CHAPTER 156.**(H. B. 246)****RELATING TO THE ADMINISTRATION OF TRUSTS****AN ACT** Entitled, An Act Relating to the Administration of Trusts by the Circuit Court.*Be It Enacted by the Legislature of the State of South Dakota :*

Section 1. The Circuit Court of the County where trust property, or some portion thereof, is situated, other than property held by an executor, administrator, or guardian, shall have jurisdiction to supervise and administer such trust property. In case such property is situated in more than one county, the Circuit Court of the county to which application is first made shall administer such property. Such supervision and administration may be by special proceedings, of which proceedings notice shall be given as hereinafter provided.

Section 2. The Supreme Court shall on or before the first day of July, 1923, establish rules of practice for the Circuit Court in supervising and administering trust properties over which it has jurisdiction. It shall by such rules prescribe the notice that shall be given of proceedings in the Circuit Court relating to such trusts. Such rules shall require every trustee holding otherwise than as executor, administrator, or guardian, any property in this state in trust for the benefit of another to file at stated intervals itemized accounts of all his receipts and disbursements as such trustee; and regulate the practice and procedure in filing such accounts, and in securing judicial approval thereof, in the removal of trustees, other than executors, administrators, or guardians, and

appointment of their successors, and in such other matters pertaining to the exercise by courts of equity of supervisory jurisdiction over such trusts as the Supreme Court may deem it expedient to so regulate. The Supreme Court may at any time thereafter revise such rules and make such amendments thereto or such further rules as it may deem necessary. The Clerk of the Supreme Court shall, as soon as possible after the adoption of such rules or amendments, transmit a copy thereof to the Clerk of Courts of each county in this State, who shall thereupon file and record the same as a public record. All rules so established shall have the force of statute law, and be binding upon all courts having jurisdiction of such trusts. All rules so established shall be published in the volume of the South Dakota Reports first published after their adoption.

Approved March 7, 1923.

CHAPTER 157.

(H. B. 85)

RELATING TO PRIVILEGE OF WITNESS FROM ANOTHER STATE FROM ARREST OR SERVICE OF PROCESS

AN ACT Entitled, An Act Affording Protection from the Service of Papers or Arrest of any Person Coming into This State to Testify as a Witness in a Criminal Action, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Any person who comes into this State in response to a subpoena for the purpose of testifying as a witness in a criminal action pending in a court of this State shall not be served with any papers or arrested, on account of or in connection with any cause of action arising or any offense committed before the time of such person's coming to this State as a witness, until such person shall have had reasonable time to leave this State after attending court and testifying as such witness.

Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace and safety and the support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1923.

CHAPTER 158.

(H. B. 105)

PROVIDING FOR THE COMPULSORY ATTENDANCE IN ANOTHER STATE OF
WITNESSES IN CRIMINAL ACTIONS

AN ACT Entitled, An Act Providing for the Entry of an Order by the Circuit Court Requiring a Person in This State to Attend and Give Testimony in a Criminal Action Pending in Another State After a Petition Has Been Filed in the Office of the Clerk of Said Courts, and the Person Given an Opportunity to be Heard in Opposition Thereto, and Providing Punishment for Failing to Do So, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Petition—Hearing. When a petition is filed in the office of the Clerk of the Circuit Court upon the relation and oath of a prosecuting attorney in another state, which, by its laws, has heretofore or may hereafter make provision for commanding persons within its borders to attend and testify in a criminal action in this state, setting forth that there is a criminal action pending in the courts of such state wherein a person resides or being within the county wherein said Court is held is a material witness for the state in such action, to which there is attached a certified copy of the indictment or information therein, a Judge of said Court shall issue an order fixing the time and place for a hearing on said petition, which may be during a session of the Court or in vacation, and thereupon the clerk shall prepare a notice requiring the said witness to appear before the said Judge at the time and place specified in said order to make defense thereto and shall deliver the same to the sheriff of said county for service upon said person.

Section 2. Costs—How Paid. All costs of said proceedings, which shall be estimated by the clerk, shall be paid to the clerk at the time said petition is filed.

Section 3. Material Witness—Order. If it shall be shown upon said hearing that the said person is a material and necessary witness for the prosecution in said case, the Court shall enter an order commanding said person to appear and testify in said cause in the Court in which such criminal action is pending at a certain named time and place, of which order the said person shall take notice.

Section 4. Witness Fees Tendered in Advance. If any person on whom such order has been made, having been tendered by the party asking for the order ten cents (\$.10) for each mile traveled to and from such Court, and the sum of Five (\$5.00) Dollars for each day that his attendance is required, including the time going to and returning from the place of trial, the number of days to be specified in such order, shall unreasonably neglect to attend and testify in such Court, he shall be punished in the manner provided for the punishment of disobedience of any order issued from the office of the clerk of the Circuit Court; provided, however, that the laws of the state in which the trial is to be held gives to persons coming into the state, under such order, protection from the service of papers and arrest.

Section 5. Certified Copies to Be Sent to Other States. Upon the taking effect of this Act it shall be the duty of the Secretary of State to certify a copy of this law to the executive department of each of the States of the United States.

Section 6. Whereas, this Act is necessary for the immediate

preservation of the public peace and safety and the support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved February 27, 1923.

Crimes

CHAPTER 159.

(H. B. 29)

THE SALE OR POSSESSION OF PEYOTE OR MESCAL

AN ACT Entitled, An Act Relating to *Lophophora Williamsii* or Peyote (Pellote) and *Agave Americana* (commonly known as Mescal); Prohibiting the Use or Possession Thereof, Traffic Therein, and Providing Penalties for the Violation of This Act.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That it shall be unlawful for any person, firm, corporation, or association to sell, furnish, or give away, or offer to sell, furnish, or give away, or to have in his or its possession Peyote (Pellote), botanically known as *Lophophora Williamsii*; or *Agave Americana*, commonly known as the Mescal button; or any compound, derivative, or preparation thereof.

Section 2. Any person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed \$500.00 or imprisoned in the county jail for a period of not to exceed six months, or by both such fine and imprisonment.

Section 3. Whereas, there is no adequate law relating to Peyote (Pellote) and this law is necessary for the immediate preservation of the public peace, health and safety, and emergency is hereby declared to exist, and this Act shall be in force and effect from and after its passage and approval.

Approved February 26, 1923.

CHAPTER 160.

(H. B. 66)

SPREADING DISEASE GERMS

AN ACT Entitled, An Act Making the Releasing or Spreading of Disease Germs a Felony and Providing a Penalty.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Every person who releases or spreads any disease

germs intending thereby to accomplish the infection of one or more persons or domestic animals is guilty of a felony and shall be punished by imprisonment in the state penitentiary not less than one nor more than ten years.

Approved February 27, 1923.

Custer State Park

CHAPTER 161.

(S. B. 178)

RELATING TO EXCHANGE OF LANDS

AN ACT Entitled, An Act Authorizing the Governor on Recommendation of the Custer State Park Board to Convey Certain State Lands Within or Being a Part of the Custer State Park to the United States in Exchange for National Forest Lands in the Vicinity of Sylvan Lake.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That upon the recommendation of the Custer State Park Board the Governor of the State of South Dakota may grant, deed and convey, in fee simple, by a sufficient instrument in writing, not to exceed sixteen hundred (1,600) acres of lands within or being a part of the Custer State Park to the United States of America in exchange for National Forest Lands of equal value owned by the United States, located in the vicinity of Sylvan Lake and approved by the Custer State Park Board as of equal value for park purposes to the lands thus conveyed to the United States. This authorization of such exchange and conveyance is intended to provide for the consummation of exchange of lands contemplated by and pursuant to the requirements of Chapter 247 of the Laws of the Second Session of the 66th Congress of the United States, Act of June 5th, 1920 (H. R. 11398; Public No. 258), entitled, An Act for the creation of the Custer State Park Game Sanctuary in the State of South Dakota, and for other purposes.

Approved February 27, 1923.

Drainage

CHAPTER 162.

(S. B. 61)

PROVIDING FOR FILING IN REGISTER OF DEEDS OFFICE COPY OF RESOLUTION ESTABLISHING DRAINAGE DISTRICT

AN ACT Entitled, An Act Providing for the Giving of Constructive Notice of the Establishment of Intrastate Drainage Districts, to Purchasers and Encumbrancers of Land Situated Therein, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Whenever an Intrastate Drainage District is hereafter established by a board or boards of county commissioners, within any county or counties within the State of South Dakota, by virtue of sections 8458 to 8491, both inclusive, of the Revised Code of 1919 of the State of South Dakota, and acts amendatory thereto, it shall thereupon become the duty of the County Auditor of any county wherein such Drainage District, or portion thereof, is situated, to forthwith file in the office of the Register of Deeds of such county, a certified copy of the Resolution establishing such Drainage District, which said Resolution shall contain the description of each lot, parcel and tract of land situated within said Drainage District and affected by the proceedings establishing same. Said Resolution shall be recorded at length and indexed against each lot, parcel and tract of land described in said Resolution, by the Register of Deeds of such county, for which no fee shall be charged and shall thereafter be and constitute constructive notice of the establishment of such Drainage District, to all subsequent purchasers and encumbrancers of any of such premises.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. Whereas, this act is necessary for the immediate preservation of the public peace and safety and for the support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1923.

Education

CHAPTER 163.

(H. B. 283.)

ADMISSION OF ADULTS IN THE PUBLIC SCHOOLS

AN ACT Entitled, An Act to Provide for the Admission of Adults into Public Schools

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. If a public school can accommodate more students, the district board or board of education may admit persons over twenty-one years of age, who are residents of the district and who have resided therein for at least one year, without payment of tuition; provided, however, that persons over twenty-one years of age, who are graduates of accredited high schools, may, in the discretion of the Board of Education or District School Board, be required to pay tuition.

Approved March 6, 1923.

CHAPTER 164.

(H. B. 179)

RELATING TO BOARD OF EDUCATION IN CITIES OF MORE THAN 25,000 INHABITANTS

AN ACT Entitled, An Act Increasing the Term of Office of Members of Boards of Education in Independent School Districts Which Include or Partly Include Within Their Boundaries Cities of More Than 25,000 Inhabitants to Five Years, and Fixing the Manner of Their Election.

Be It Enacted by the Legislature of the State of South Dakota:

In all independent school districts which include or partly include within their boundaries cities of more than twenty-five thousand inhabitants, as determined by the last State or Federal census, there shall be a Board of Education consisting of five members elected at large whose term of office, except as hereinafter provided, shall be five years, and one of whom, except as hereinafter provided, shall be elected annually. At the first election held under the provisions hereof there shall be elected as many members of the Board of Education as there are members upon such board whose term of office would expire prior to the next annual school election, and the members of the Board of Education so elected shall take office immediately upon their election and qualification. If but one member of the Board of Education be so elected, he shall be elected for a term of five years; if two members of the Board of Education be so elected, one shall be elected for a period

of three years, and one shall be elected for a period of five years. At the second annual election hereunder there shall be elected members of the Board of Education to succeed any members of said board whose terms of office would expire after the second and before the third annual election held hereunder, and the members of the Board of Education so elected shall take office immediately upon their election and qualification. If but one member of the Board of Education be so elected, he shall serve for a term of five years; if two members of the Board of Education be so elected, one shall be elected for a period of three years, and one shall be elected for a period of five years, and thereafter one member of said Board of Education shall be elected each year. If it shall be necessary in compliance herewith to elect more than one member of any Board of Education at any annual school election the certificate of nomination of any candidate for such office shall, in addition to the matters now required by law to be stated in said certificate, state whether such candidate is a candidate for the three year term or the five year term, and the name of the candidate for a three year term upon the ballots used at said election shall be followed upon such ballot by the words "three year term," and the name of any candidate for a five year term upon the ballots used at said election shall be followed upon such ballot by the words "five year term." In an independent school district which does not include or partly include within its boundaries a city of more than twenty-five thousand inhabitants, the members of the Board of Education shall be elected in the manner and for the term, as provided in Section 7539 of the Revised Code of 1919.

Section 2. A member holding office by virtue of an appointment by a Board of Education in an independent district, which includes or partly includes within its boundaries a city of more than twenty-five thousand inhabitants, to fill a vacancy shall not be included within the term "members upon such board whose term of office would expire prior to the next annual school election" as used in Section 1 hereof unless the term for which his immediate predecessor in said office was elected shall expire before the next succeeding annual school election, but a successor to such member shall be elected to fill such unexpired term as provided in Section 7540 of the South Dakota Revised Code, 1919, and in such event, the certificate of nomination of any candidate for such unexpired term shall state that such candidate is a candidate for an unexpired term and shall state the year of expiration of such term, and the name of such candidate upon the ballots used at said election shall be followed upon such ballots by the words "unexpired term expiring" followed by the year of the expiration of such term.

Section 3. Whereas, there is now no adequate provision of law for the election in the year 1923 of more than one member of a Board of Education of any independent school district which includes or partly includes within its boundaries a city of more than twenty-five thousand inhabitants, and whereas, the terms of office of two members of Boards of Education in such independent school districts will expire in the year 1923, therefore, this Act is necessary for the immediate support of the State Government and its existing public institutions, and an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 165.

(H. B. 171.)

RELATING TO SCHOOL DISTRICT FUNDING BONDS

AN ACT Entitled, An Act Authorizing the Issuance of School District Funding Bonds by Boards of Education and Providing the Terms Thereof.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Upon petition signed by at least three-fifths of the resident freeholders of any organized school district properly certified to by the person or persons circulating said petition, the Board of Education of said school district by a unanimous vote of said Board is authorized by and through the Board of Education to issue its negotiable coupon bonds for the purpose of funding the outstanding indebtedness which exists against such school district, provided that no bonds shall be issued under the provisions of this act to fund any indebtedness except such as are represented by school district warrants issued and outstanding at the time of the passage and approval of this act. Such bonds shall be in denominations of not less than \$100.00 and not more than \$1,000.00 shall bear interest at a rate not exceeding 6% per annum, payable semi-annually and shall mature in twenty years or less from the date of bonds, and shall not be sold by the Board of Education for less than their par value, provided that in no case shall the amount of such bonds, in the aggregate, including the then existing indebtedness, exceed the rate per cent allowed by law of the assessed valuation of taxable property within such school district for the year preceding that in which said bonded indebtedness is incurred. Said bonds shall be designated as Funding Bonds and shall be signed by the President of the Board of Education, attested by the clerk of said Board, and the attached coupons shall be executed by the fac-simile signatures of said President and clerk and the seal of the Board of Education shall be affixed to each bond. Each bond shall state on its face that it is issued pursuant to this act.

Section 2. The powers by this act conferred are in addition to all other powers conferred by law but no bonds shall be issued hereunder unless authorized by a resolution of the Board of Education adopted prior to July 1st, 1923.

Approved March 6, 1923.

CHAPTER 166.

(S. B. 166.)

REQUIRING A THREE-FIFTHS VOTE FOR ISSUANCE OF BONDS BY SCHOOL DISTRICTS AND INDEPENDENT SCHOOL DISTRICTS

AN ACT Entitled, An Act to Amend Sections 7593 and 7606 of the South Dakota Revised Code of 1919, Relating to the Issuance of Bonds in School Districts.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 7593 of the South Dakota Revised Code of 1919 is hereby amended to read as follows:

Section 7593. Election. Before the question of issuing bonds shall be submitted to a vote of the school district, notices shall be posted in at least three public places in such district stating the time and place of meeting, the amount of bonds proposed to be issued, and the time at which they shall be made payable. Such notices shall be posted not less than twenty days before the meeting, and the voting shall be done by means of written or printed ballots. All ballots deposited in favor of issuing the bonds shall have thereon the words "For issuing bonds," and those opposed thereto shall have thereon the words "Against issuing bonds;" and if three-fifths of all the votes cast shall be in favor of issuing bonds, the school board through its proper officers shall forthwith proceed to issue bonds in accordance with the vote; but if there is less than a three-fifths vote cast in favor of issuing the bonds, then no further action can be had, and the question shall not be again submitted to a vote for one year thereafter, except for a different amount.

Section 2. That Section 7606 of the South Dakota Revised Code of 1919 is hereby amended to read as follows:

Section 7606. Board Canvass Votes. After the close of the polls the respective election boards shall canvass the votes cast and certify the results to the board of education. The board of education shall meet within one week after such election and proceed to canvass the votes cast in the various wards or election precincts, and the result of the canvass must be entered in the minutes of the board. If one or more of such propositions shall receive three-fifths of all the votes cast on such proposition in favor thereof, the board of education, through its proper officers, as hereinafter provided, shall forthwith proceed to issue bonds in accordance with the vote, and the clerk must enter in his records the affidavits of publication of notice of the election.

Approved March 9, 1923.

CHAPTER 167.

(S. B. 182)

RELATING TO COMPULSORY EDUCATION

AN ACT Entitled, An Act to Amend Sub-Section 3 of Section 7642 of the South Dakota Revised Code of 1919 as Amended by Chapter 199 of the Session Laws of 1921.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That sub-section 3 of Section 7642 of the South Dakota Revised Code of 1919 as amended by Chapter 199 of the Session Laws of 1921, be and the same is hereby amended so as to read as follows:

3. Excuses from Attendance. The County Superintendent shall have authority in all schools under his direct supervision and the Board of Education in all independent school districts employing and maintaining a superintendent for the schools of such independent district shall likewise have power, to excuse a child from school attendance for the following reasons:

(a) Because of serious illness in his immediate family, making his presence at home an actual necessity, or his presence in school a menace to the health of other pupils.

(b) Because the child is otherwise instructed by a competent person

for a like period of time in the branches commonly taught in the public schools; provided, that all such instructions shall be given only and entirely in the English language. The County Superintendent shall be the judge as to the competency of such instruction and the child so instructed shall take such examination as the County Superintendent may require, and reports covering his work shall be filed with the County Superintendent in such form and as often as that officer may require.

(c) Because the physical or mental condition of the child is such as to render his attendance at school unsafe, impracticable or harmful either to such child or to others; provided, that the existence of such condition is evidenced by the certificate of a reputable physician, dentist or any other person who may lawfully treat sickness or disease under the laws of this state.

(d) Because the child, as declared by a reputable physician, is mentally or physically defective and cannot receive proper instruction in the common schools, in which case, suitable provision shall be made for the instruction or training of such child by a private instructor or an institution adapted to the instruction and training of such defectives. Provided, in the event that a blind, deaf or feeble-minded child is not given such instruction, it shall be the duty of the truancy officer to institute action in the County Court for the commitment of such child to the state institution maintained for such defective, unless such child be excused from attendance by the superintendent of such institution.

(e) Between April 1st and November 1st, should there exist an extreme need for the child's assistance at home, he may be excused from attendance at school for a period of not to exceed forty school days; provided, that such child shall have completed the sixth grade of the common school course or its equivalent.

(f) Provided further that a child may on application of his parent or guardian be excused from school for one hour per week for the purpose of taking and receiving religious instruction conducted by some church or association of churches or any Sunday School Association incorporated under the laws of the state or any auxiliary thereof; said time, when pertaining to schools in open country, may be used cumulatively each separate month, as local circumstances may require. The County Superintendent of Schools in Common School Districts and the Board of Education in Consolidated and Independent School Districts shall decide at what hour scholars may be thus excused, and in no event shall such instruction be given in whole or in part at public expense.

(g) Provided, that all applications for excuse from school attendance shall be in writing, and if granted, a certificate shall be issued by the Superintendent of Schools having jurisdiction over the district in which the child resides, stating the reason for such excuse and the period for which it is issued. Provided, further, that any reputable citizen who is dissatisfied with the decision of the County Superintendent or Board of Education, as the case may be, may appeal the matter to the Superintendent of Public Instruction, whose decision shall be final. A permanent record of all such certificates of excuse shall be kept by the County Superintendent and by the clerk of the Board of Education, and duplicates forwarded to the Superintendent of Public Instruction at the time of issue, and the teacher of the school to which such child belongs shall be promptly notified of the issuance of such certificate.

Approved March 8, 1923.

CHAPTER 168.

(S. B. 104)

RELATING TO ABANDONMENT OF AND WITHDRAWAL FROM CONSOLIDATED DISTRICTS

AN ACT Entitled, An Act to Amend Chapter 202 of the Session Laws of 1921. Relating to Abandonment of Consolidated School Districts.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Chapter 202 of the Session Laws of 1921 is hereby amended to read as follows:

Section 1. That in all school districts in which an election has been or may hereafter be held for the purpose of forming a Consolidated School District, and in which no building or buildings of a permanent character for school purposes have been erected or purchased, with approval as provided by Section 7612 of the Revised Code of South Dakota of 1919 since the consolidation of said district, and no bonds have been issued since the consolidation of said district, an election may be called and held, as hereinafter provided, for the purpose of determining whether such consolidation shall be abandoned, and such district or districts shall be re-organized into such districts as existed before such consolidation.

Section 2. Upon presentation to the County Superintendent of Schools of a petition signed by at least forty per cent of the electors of any such consolidated school district, qualified to vote at school meetings, the genuineness of whose signatures shall be verified by the person who circulated such petition, asking for the abandonment of such consolidated school district, the County Superintendent shall within ten days cause twenty days' notice to be given in such consolidated school district, of an election to be held upon the question of the abandonment of the consolidated school district, at a time and place specified in such notice. A copy of such notice shall be posted in at least three of the most public places in each of the former school districts comprising such consolidated school district. and if there be a newspaper published in such district, then such notice shall be also published in such newspaper once, and at least one week before such election. At such election the Board of Education of said Consolidated School District shall elect from their number, a chairman and clerk who shall be the officers of the meeting. The chairman shall appoint two tellers, and the election shall be conducted as are the regular annual school meetings in school districts. The vote of such election shall be by ballot, which shall read "For Abandonment of Consolidation" or "Against Abandonment of Consolidation." The officers of such election shall within ten days certify the results thereof to the County Superintendent. If a majority of all of the electors of such consolidated school district voting at such election, vote in favor of abandonment, the county superintendent shall on the first day of July immediately following such election, make proper orders to give effect to such vote, and shall transmit a copy thereof to the Auditor of the County, and to the clerk of such consolidated school district, and also to the Superintendent of Public Instruction, and shall then immediately give ten days notice to be given in each of the former districts included in said abandoned consolidated district, of a meeting to be held for the purpose of electing a new chairman, clerk and treasurer for each common school district, and a Board of Education and a treasurer for any inde-

pendent district therein, which territories shall thereafter be and remain a school district and be governed by the general laws of the State of South Dakota, applying to school districts, until changed or divided by the provisions of law applying thereto.

Section 4. All properties acquired by the consolidated school district seeking to be dissolved under this act, and where such consolidated district has been dissolved, shall be redistributed by the county superintendent to the school districts which are created from the dissolved school district, in the same ratio as such property was acquired; provided, however, that such property has formerly belonged to the districts composing such consolidated school district, shall be returned to the districts that previously owned it; and provided further that no election which might be held under the provisions of this section shall operate as a bar to any election which may be held under the provisions of the succeeding paragraph of this Chapter.

Section 5. In any consolidated district in which there is an incorporated town or city, or in which there is an independent school district, and in which no building or buildings of a permanent character for school purposes have been erected or purchased, with approval as provided by Section 7612 of the Revised Code of South Dakota of 1919, since the consolidation of said district, and no bonds have been issued since the consolidation of said district, the several original common school districts embraced in such consolidated district may vote separately upon the question of withdrawing from their consolidated district, providing none of the common school districts embraced therein have been divided in forming such consolidation; and an election may be called and held in any of such original common school districts, upon the filing of a petition containing the percentage of signatures for such common school districts as provided in Section 2 of this Act, with the county superintendent of schools. Upon the filing of such petition it shall be the duty of the county superintendent of school to call an election in such petitioning original common school district for the purpose of permitting the electors thereof to vote upon the question of withdrawing from such district. Such superintendent shall designate and appoint judges of election in such common school district, and such election shall thereupon be held as provided by law for school elections. The notice of the election shall be given as provided by Section 2 of this Act, and the judges thereof shall canvass the vote of such election. The County Superintendent shall provide ballots to be used at said election, marked "For Withdrawal From Consolidated District," or "Against Withdrawal from Consolidated District," and all qualified voters of said original common school districts shall be entitled to vote at said election. The judges of elections shall certify the result thereof to such county superintendent within ten days after said election, and if seventy-five per cent of all of the electors of the original common school district voting upon such proposition, shall vote for such withdrawal, then such original common school district shall be separated from such consolidated school district, and shall be reinstated as it originally existed prior to consolidation, and property returned as provided in Section 4 of this Act.

Section 3 of Chapter 202 of the Session Laws of 1921, and all Acts or parts of Acts in conflict herewith are hereby repealed.

Section 6. Whereas, this act is necessary for the immediate support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 169.

(S. B. 136.)

TRANSPORTATION OF PUPILS IN CONSOLIDATED SCHOOL DISTRICTS
AN ACT Entitled, An Act to Amend Section 7574 of the Revised Code of the State
of South Dakota of 1919, Relating to Transportation of Pupils in Consolidated
School Districts.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 7574 of the 1919 Revised Code of South Dakota be amended to read as follows:

Section 7574. The Board of Education of a Consolidated School District is authorized to provide for the transportation of pupils, and it shall be the duty of the Board to provide and maintain means of transportation for all such pupils as live a greater distance than two and one-half miles from the school. Such transportation whether provided by the Board or by parents under an arrangement with the Board, shall be in comfortable and safe conveyance, the driver of which shall use every care for the safety of the children under his charge and shall maintain discipline therein. In lieu of providing transportation the Board may make arrangements with the parent, guardian or other person to transport such children as may live more than two and one-half miles from the school, provided that such parent, guardian or other person shall provide, for the transportation of the children, a comfortable and convenient conveyance, well supplied with protection against inclement weather, and shall actually transport or provide for the transportation of such children to the school for at least seven months of each school year. If the Board makes arrangements with the parent, guardian or other person to transport such children as may live more than two and one-half miles from the school, said parent, guardian or other person shall receive from such school district one dollar and twenty cents per day for the children of each family so transported where the distance from the school house is from two and one-half miles to three and one-half miles, and where the distance is from three and one-half to four and one-half miles the sum of one dollar and fifty cents per day, and where the distance is from four and one-half to six miles, the sum of two dollars per day, and such arrangement shall be in lieu of all other means or method of transportation; and if the School Board of such district decides that the parent, guardian or other person should transport such children for the amounts herein provided for, it shall relieve the School District from providing any other means or method of transportation. In cases where it is practicable, conveyance by interurban, steam railway or automobile shall be equivalent to transportation by team; provided, that the Board of Education shall have authority, under this section, to designate and establish routes for the transportation of children and to designate points within convenient and easy access to the several homes of the children entitled to transportation where the conveyance shall stop and take such children on in the morning, put them off in the evening, but no such place designated as a place to take on any child entitled to transportation shall be more than five-eighths of a mile from the home of such child; provided, further, that the Board may, in lieu of providing for transportation, expend a reasonable amount for room and board of pupils whose attendance at school can more economically and satisfactorily be provided for by such means.

Approved March 6, 1923.

CHAPTER 170.

(H. B. 20)

RELATING TO TRANSPORTATION OF SCHOOL CHILDREN

AN ACT Entitled, An Act to Amend Section 7485 of the South Dakota Revised Code of 1919 as Amended by Chapter 206 of the Session Laws of 1921, Relating to Transportation of School Children.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 7485 of the South Dakota Revised Code of 1919, as amended by Chapter 206 of the Session Laws of 1921, be and the same is hereby amended to read as follows:

Section 7485. **Transportation.** When pupils reside more than two and one-half miles from the nearest school house in the school district and not to exceed three miles, the parent, guardian, or pupil shall receive from his school district ten cents per day for each pupil; if more than three miles and not to exceed four miles, twenty cents per day; if more than four miles and not to exceed five miles, thirty cents per day, if more than five miles, forty cents per day; provided, that such financial provisions shall be only for actual attendance at public school and conditioned that the district in no way furnish means of conveyance; provided, that when any pupil shall have passed the eighth grade, such pupil, his parent or guardian shall not receive payment for transportation to or from school. Provided, that when pupils reside nearer some school in another district, the school board or Board of Education may make arrangements for the schooling of such pupils at such other school by paying tuition at a rate of not to exceed the per capita cost per month of tuition in such other district for each pupil so enrolled, unless some other rate be agreed to between the School Boards of districts concerned prior to the enrollment of any such pupil, such tuition to be computed from the time of enrollment until such pupil leaves such school permanently, or to the close of the school term, and such transportation as previously provided for in this section. Provided, further, the distance traveled by the most direct route, to be established by the District Board, subject to an appeal as provided for appeals from decisions of School Boards, relative to school matters, shall be the basis of computation. Provided, further, that no township or district shall expend more than Eight Hundred Dollars for transportation in any one year, provided, further that payments may be made monthly or at the close of the school year in the discretion of the District Board, and if bills allowed are in excess of Eight Hundred Dollars, said sum of Eight Hundred Dollars shall be divided pro rata. Provided, further, that in any district in which a public school shall have been discontinued, it shall be the duty of the district school board to make such provisions as shall be determined by the county superintendent for the schooling of the pupils who would ordinarily be in attendance at the school were it not discontinued. Provided, further, that in any district where children of school age shall live more than four miles from the nearest school within or without the district, and the parents or guardians of such children are not satisfied with the transportation provided by law, it shall be the duty of the district school board to make such provision as shall be determined by the county superintendent for the schooling of such children. If any parent or guardian be dissatisfied with the decisions of the county superintendent in such cases, then an appeal

therefrom, may be taken to the Circuit Court of the county in the manner provided by law for appeals from decisions of District School Boards.

Approved February 17, 1923.

CHAPTER 171.

(S. B. 324.)

REQUIRING TEACHING OF STATE AND FEDERAL CONSTITUTIONS

AN ACT Entitled, An Act Requiring the Teaching of the Constitution of the United States and the Constitution of the State of South Dakota in the Public and Private Schools of the State.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. In all public and private schools located within the State of South Dakota, commencing with the school year next ensuing after the passage of this act, there shall be given regular courses of instruction in the Constitutions of the United States and the State of South Dakota.

Section 2. Such instruction in the Constitutions of the United States and the State of South Dakota shall begin not later than the opening of the eighth grade, and shall continue in the High School course to an extent to be determined by the Superintendent of Public Instruction, and such course shall be continued in the state institutions of higher learning to an extent to be determined by the Regents of Education.

Approved March 6, 1923.

CHAPTER 172.

(S. B. 300.)

RELATING TO COUNTY SUPERINTENDENT OF SCHOOLS

AN ACT Entitled, An Act to Amend Section 7420 of the South Dakota Revised Code of 1919 as Amended by Section 2, Chapter 208 of the Session Laws of 1921, Relating to County Superintendent of Schools.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 7420 of the South Dakota Revised Code of 1919, as amended by Section 2 of Chapter 208 of the Session Laws of 1921, be and the same is hereby amended to read as follows:

Section 7420. In any county having fifty or more schools under the direct supervision of the county superintendent, the county superintendent may appoint an office deputy for whose act as such he shall be responsible. Such office deputy may or may not possess the qualifications required by law for the county superintendent, but he must be at least fitted to do office work and must hold a valid teacher's certificate. In counties having one hundred or more schools under the direct supervision of the county superintendent, the county superintendent may in addition appoint a field deputy having the qualifications of the county superintendent for whose act as field deputy the county superintendent

shall be responsible. The office deputy shall receive a salary fixed by the county commissioners; the field deputy shall receive a salary fixed by the county commissioners of not less than 75 per cent of the salary of the county superintendent per month. Each deputy shall take and subscribe the same oath as his principal naming his deputyship, which shall be endorsed and filed with the certificate of appointment. Provided, that when an office or field deputy is engaged at the minimum salary herein provided, the filing of such oath of appointment with the County Auditor shall be construed as induction into office and the county shall be liable for his salary after date of such filing and until his services terminate.

Provided, that no deputy shall be employed or paid under the provisions of this section unless the county superintendent shall at the same time devote his whole time to the duties of his office. Provided, further, that in any county having over fifty and less than one hundred schools, the Board of County Commissioners may in its discretion allow the employment by the county superintendent of temporary assistants in the examination and marking of seventh and eighth grade examination papers, and in case such assistance is granted, it shall be paid for by warrant issued by the County Auditor upon the Treasury of the county.

Approved March 9, 1923.

CHAPTER 173.

(S. B. 181.)

PERMITTING SCHOOL CORPORATIONS TO RECEIVE GIFTS

AN ACT Entitled, An Act Empowering Public School Corporations to Accept, Own, Manage and Dispose of Gifts, Bequests and Grants.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Every public school corporation in this state is hereby empowered to accept, own, manage and dispose of any grant, gift or bequest of real or personal property.

Section 2. The governing board of such public school corporation shall have power to enter into such agreement for the receipt of any gift, grant, or bequest upon such terms as shall be to the best interests of all parties and may make such rules and regulations as it may deem best for the ownership, management and control of such property and if the donation be in money or of property to be liquidated in money the same may be put into a fund, such fund to be given a name which may be that of the donor; the governing board of such public school corporation shall put it to use that will bring income to the school. Provided, that no gift or grant shall be accepted if any legal action or procedure be necessary to reduce such gift to possession.

Approved March 9, 1923.

CHAPTER 174.

(H. B. 160.)

RELATING TO COUNTY AND CENTRAL HIGH SCHOOLS

AN ACT Entitled, An Act Providing for the Establishment and Maintenance of County and Central High Schools.

Be It Enacted by the Legislature of the State of South Dakota:

That a county or central high school may be established in any of the different counties of this State in compliance with the following provisions:

Section 1. No county or central high school shall be located within three miles of the corporate limits of a city having a population of fifteen hundred (1500) inhabitants or more, and such city or an independent school district containing such city shall be exempt from the provisions of this act; provided that whenever any proposed county or central high school district shall contain a municipal corporation of one thousand (1000) inhabitants or more, a majority of all the votes cast outside the limits of such corporation shall be required. In reckoning the population of towns and cities for the purpose of determining the provisions of this act, the last official census of the United States Census Bureau shall constitute the basis: Provided further, that a county or central high school established under the provisions of this act shall not be discontinued on account of an increase of population or the extension of the territorial limits of the village, town or other municipal corporation in which it is situated.

Section 2. Whenever, in the opinion of any of the qualified electors of any county or two or more school districts in any county, residing outside the territorial limits of the districts exempted from the provisions of this act, it shall be deemed wise to establish a high school, a petition may be executed which shall designate the location of such high school to be established. Such petition shall show by plot to be attached to the same petition, the territory to be included in the proposed county or central high school district. If such petition, containing the properly verified signatures of twenty-five per cent (25%) of the qualified electors of each school district of said county to be included in such high school district shall be filed with the County Auditor, the Board of County Commissioners at its next regular meeting following the presentation of the petition, shall consider said petition and shall submit the question of establishing and maintaining such county or central high school to the electors of the county or portion thereof included in such proposed high school district within sixty days after the meeting. Such special election shall be held in the manner and upon the notice prescribed by law for school elections and the returns shall be made and canvassed in the same manner as provided by law for school elections. The published and posted notices of such election shall state the object of such election and the location of the proposed county or central high school. If the majority of all the votes cast at such special election upon the question of establishing a county or central high school is in favor of the establishment thereof, the proposition shall be declared carried and the county or central high school district duly created: Provided that any two or more school districts petitioning for such county or central high school must have an assessed property valuation of at least three million dollars (\$3,000,000.00). The

County Auditor shall forthwith certify the result of such special election to the county superintendent of schools, who shall proceed, within ten days, to make provision for the election of the board, in the manner provided by law for the election of independent school district boards. The members of said board shall receive actual traveling and hotel expenses while on official business of the county or central high school board, payable from the funds of said county or central high school district, and said county or central high school board shall meet as provided by the laws relative to independent school districts.

Section 3. Powers and Duties. The county or central high school board shall have the same powers and perform the same duties as boards of education in independent school districts, insofar as is applicable. In addition it shall have power to provide a dormitory as hereinafter provided; to purchase land not to exceed forty acres to be used as agricultural experiment plots; to accept any grounds, buildings or moneys that any person, school corporation or municipal corporation may wish to donate for the purpose of maintaining or assisting to maintain the county or central high school: to rent such buildings or class rooms as may be expedient; to lease any room or rooms in the building under its supervision not in immediate use, to a school corporation or other persons for any purpose it may deem wise; to make such arrangements as may be just and equitable with any board of education or school board relative to providing instruction for the high school pupils of such district, in the county high school. It shall also have power to rent such rooms or buildings as may be necessary at various times to properly conduct the affairs of the county or central high school district and to perform such other acts as may be necessary in the management of the county or central high school.

The county or central high school board, shall, previous to August 1st of each year, make an estimate of the probable cost of maintaining the county or central high school for the ensuing year and shall submit the same to the county commissioners who shall levy a special tax for this purpose. The county commissioners shall levy such tax upon all the assessable property of the county or district, comprised in such high school district, except the taxable property within any school district maintaining a four year accredited high school, other than a county or central high school. Such tax for county or central high school purposes shall be computed, entered on the tax roll of the county and collected in the same manner as are other county taxes and the amounts so collected shall be deposited in the county treasury and be known and designated as the county or central high school fund. The county treasurer shall pay out money from this fund only on warrants authorized by the county or central high school board, issued by the secretary and countersigned by the president of the board. The levy for maintaining county or central high schools shall not be less than one-half mill nor more than three mills on the dollar of the assessed valuation of the county, or district comprised in such central or county high school district.

Provided, that no bonds shall be issued under the provisions of this act in an amount in excess of two per cent (2%) of the total assessed valuation of all property in the county or district comprised in such central or county high school district. Such bonds shall be in denominations of not over one thousand dollars (\$1,000.00) nor less than one hundred dollars (\$100.00) and shall not run for a term of more than twenty years and shall draw interest not in excess of seven per cent (7%). Said bonds may be issued in addition to all other bonds of the county.

The county or central high school board shall request the county commissioners at or before the time of issuing bonds to provide for the levy of an annual tax, sufficient to pay the interest and principal thereof, when due, and all such levies when legally made shall be irrevocable until such debt shall be paid. Provided further, that such levy in a year shall not be greater than twenty per cent (20%) of the debt to be paid. The county or central high school board, may, in its discretion, instruct the county commissioners to purchase any of its outstanding bonds at their market value and pay for the same out of the sinking fund thereby created.

Provided further, that the funds thus provided for the maintenance and establishment of a county or central high school shall at no time be used for the maintenance or establishment of schools or grades of schools or rank below the eighth grade. Provided, that all matters not especially covered by the provisions of this statute, such as issuing of bonds, the employment of teachers and the course of study, the laws pertaining to and governing the management and control of the affairs of independent districts shall apply to the affairs of the county or central high school.

Any person being a resident of the county or district in which a county or central high school is maintained, and holding a seventh grade certificate, showing completion of the regular course of study, issued or endorsed by the county superintendent shall be entitled to attend the county or central high school without payment of tuition or other expense for instruction except laboratory fees, and fees for individual instruction outside the regular class hours of the school. Students who are not residents of the county or district in which the county or central high school is located may be admitted to such high school on payment of a tuition fee of not less than five dollars (\$5.00) nor more than fifteen dollars (\$15.00) per month, to be determined by the actual cost of instruction per pupil in the county or central high school. Provided, that no pupil from outside the county or district comprising such central district shall be accepted to the exclusion of any pupil resident of the county or district in which such county or central high school is located, who is desirous of attending such high school.

Section 4. Additional Powers. In addition to the powers already granted to the county or central high school board in this act, the county or central high school board may erect, purchase or lease one or more buildings to be used as dormitories for the accommodation of pupils in attendance at the county or central high school and of persons employed to teach therein and may furnish and equip the same from the high school funds of the county. It shall be the duty of the board to fix the rates, if any, to be charged students for rooms in the dormitories and to place in charge of each building used for dormitory purposes a competent and responsible person who shall act as matron and shall have charge of the conduct of the dormitory, subject to the rules and regulations of the board.

The county or central high school board may, in its judgment it deems best, require any of its employees to give a bond to the county in the sum of one thousand dollars (\$1,000.00) as surety for the proper care and use of such property of the county as may be entrusted to their care.

The board shall have further authority to purchase and supply in the manner deemed most efficient and economical, such groceries and food-stuffs and other supplies as may be necessary to furnish meals to the students, teachers and other employees of the county or central high

school at a uniform, reasonable cost which shall be determined by the county or central high school board.

Section 5. Teachers and Course of Study. The county or central high school board shall employ a principal of the high school who shall possess all the qualifications necessary for a principal of a four year accredited high school and who shall be employed for twelve months in the year. The board shall employ such other teachers as may be necessary to maintain a four year accredited high school. The course of study pursued in all county or central high schools established under the provisions of this act shall be submitted to the Superintendent of Public Instruction for approval and shall contain special courses in vocational agriculture, home economics and rural teacher training, which courses shall be entitled to receive state aid in the same manner as is provided for such other state aid departments in high schools of the state. Provided further, that if in the judgment of the county or central high school board there is sufficient demand therefor, it may order established night schools for instruction in citizenship or such other instruction as it may deem expedient.

Section 6. Provided, that any independent district or common school district not included within the county or central high school district at the time of the organization of the high school district, may avail itself of the provisions of this act upon a majority vote of the electors of such independent district or territory, cast at a special election called for that purpose in the same manner as is provided for other special elections.

Section 7. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 12, 1923.

CHAPTER 175.

(H. B. 191)

RELATING TO THE FORMATION OF SCHOOL DISTRICTS FROM INDEPENDENT DISTRICTS

AN ACT Entitled, An Act to Provide for the Formation and Organization of a Common School District Out of Territory Embraced Within an Independent School District.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. A common school district or common school districts may be formed and organized from territory embraced within an independent school district which has a city or incorporated town within its boundaries in the following manner:

Provided, that the proposed common school district shall have an area of not less than thirty-eight hundred (3,800) acres. Provided further, that no portion of an incorporated city or town in such independent district shall be included in said proposed common school district, and provided further, that the portion of an independent district where a high school is maintained, remaining after such proposed common school district or districts shall have been formed shall contain property of an assessed valuation of at least five hundred thousand dollars (\$500,000.00) as last fixed by the Tax Commission.

Application by written petition for the formation and organization of such a district must be made by a majority of the electors and real property owners combined, of the territory which it is proposed to exclude from the independent school district and organized as a common school district and such petition shall be filed with the clerk of the circuit court of the county in which the proposed district is located. A plat shall be prepared showing the two districts and such plat shall be attached to the petition requesting the formation of the new districts and the petition shall state that a division of the school district is desired in accordance with the attached plat. Upon the filing with the clerk of courts of any such petition the circuit court shall, within ten days thereafter, by order, fix a time and place for a hearing upon such petition, notice of which shall be given by publication in at least one legal weekly newspaper published in the district affected by such petition, for two successive weeks, the last publication of which shall be at least ten days prior to the day set for hearing, provided that such notice shall be posted in three of the most public places within the district or districts at least twenty days before the date of said hearing if no legal newspaper is published within the independent school district. Upon the filing of such petition and the giving of such notice the circuit court shall have full jurisdiction of all matters referred to in such petition upon the hearing specified in such notice. The court shall have full authority, by order, to fix and determine and shall by order fix and determine the boundaries of the districts affected, either as designated in the petition or as subsequently modified and shall have authority to refuse the petition, if in the judgment of the court, the interests of the district or districts should so require.

Section 2. If a division of the district is ordered by the circuit court such order shall become effective on the first of July thereafter, and the county superintendent shall appoint temporary officers of the newly organized common school district who shall serve until the first annual school election and until their successors are elected and qualified.

Section 3. The circuit court shall make an equitable apportionment of the property and indebtedness of the districts affected by the division; provided that should there be any bonded indebtedness outstanding against the district the liabilities of such bonded indebtedness shall not be transferred from the district or territory against which it was originally incurred and an annual tax shall be levied against such territory sufficient to pay the interest and principal of the bonds as the same become due.

Approved March 12, 1923.

CHAPTER 176.

(H. B. 79.)

RELATING TO BONDS OF INDEPENDENT SCHOOL DISTRICTS

AN ACT Entitled, An Act to Amend Section 7609 of the South Dakota Revised Code of 1919, as Amended by Chapter 174 of the Session Laws of 1919, Relating to the Issuing of Bonds by Boards of Education in Independent School Districts and Consolidated School Districts.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 7609 of the Revised Code of 1919, as amended by Chapter 174 of the Session Laws of 1919, be and the same is hereby amended to read as follows:

Section 7609. Limit of Issue, Sinking Fund. No Board of Education in any independent school district, or any consolidated school district shall issue bonds in the amount, which, with the outstanding indebtedness of the district, shall exceed five per cent of the assessed valuation of the taxable property within such district, as fixed by the Tax Commission for the year preceding the issuing of such bonds, except when they are for funding or refunding purposes, but the amount of such funding or refunding bonds, with the debts not funded or refunded, shall not exceed such limitation; and at or before the issuing of any bonds such board, by resolution, shall provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due for the entire term of years of which said bonds are to run; and all such levies when legally made shall be irrevocable until such debt shall be paid. The interest and sinking fund thus provided for shall be set apart by the treasurer of such corporation, and shall not be used for any other purpose.

The sinking fund shall be applied to the payment of the bonds at or below par; provided, that such Board may, in its discretion purchase any of its outstanding bonds at or below par and pay for the same out of the sinking fund on hand in the treasury. Provided, the interest fund shall be applied to the payment of the interest coupons on any bonds whenever they become due. Provided, that when any such Board of Education has legally made such levies as provided, for the payment of interest and bonds when due, they shall cause to be filed in the office of the County Auditor, in the county in which such school district is situated, a certified copy of such yearly levies. The County Auditor shall have power to levy, such tax from year to year to meet said interest and sinking fund when due, without further notice or demand from any such school district.

Approved March 2, 1923.

CHAPTER 177.

(H. B. 31.)

ANNEXING AND DETACHING TERRITORY, INDEPENDENT SCHOOL DISTRICTS

AN ACT Entitled, An Act to Amend Section 7536 of the Revised Code of 1919, Relating to the Annexation and Detaching of Territory to and from Independent School Districts.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 7536 of the Revised Code of the State of South Dakota be and the same is hereby amended to read as follows:

Section 7536. Territory adjacent to any independent school district may be included therein, and territory within any independent school district may be taken therefrom and included in any adjacent district in the following manner:

1. The application for such change shall be in writing and signed by the petitioners. The application must be signed by a majority of the combined number of resident electors, and owners of real property, located within the territory sought to be included or excluded from any independent district. Said application shall also describe the real property with reasonable certainty sought to be included or excluded from said independent school district.

2. Upon receipt of such petition the County Superintendent of Schools shall call a committee to decide upon granting or refusing the petition. Such committee shall consist of County Superintendent of Schools, the President of the Board of Education of such Independent School District, and the Chairman of the other School District Board to be affected by such proceeding. Provided, however, that the County Superintendent shall send by registered mail written notice to all property owners of the territory to be attached or detached at their last known address at least ten days prior to the date of said meeting and all such persons so notified, shall, if they desire, appear and be heard by said committee.

3. The committee shall consider the interests of the corporations concerned, the convenience and equities of the petitioner, and the permanent school interests, and if they deem it proper, shall grant the petition and issue an order authorizing the attachment or exclusion of such territory to or from the independent school district or school district to which it is adjacent. The committee shall also have power to adjust all property interests involved in the change which concerns the corporations interested. Before the issuance of any order authorizing the change, it shall make an equitable adjustment of any question of indebtedness involved.

4. Record of the decision of the committee shall be transmitted to the clerks of the School Board, and Board of Education interested for record and a copy forwarded to the County Auditor by the County Superintendent of Schools and a copy thereof if the decision be adverse to the petitioners, be served upon the petitioners by the County Superintendent of Schools.

5. Such territory shall if no appeal be taken therefrom, take effect sixty days from the date of the order authorizing such change. Such order, however, shall not be issued until after the action and decision of the committee is duly recorded by the Board of Education and the District School Board: Provided that territory more than two miles from the

limits of the city or town within the independent district shall not be considered "adjacent territory" within the provisions of this section, unless the electors of such territory shall unanimously petition that it be so considered; Provided further that when the inclusion of the adjacent territory within two miles of the city or town limits will leave territory in any district or districts, that it is impracticable or inconvenient for school purposes and can not be equitably attached to any other district, then upon a petition by a majority of the combined number of resident electors and real property owners in such territory, the same may be included in the independent district.

6. An appeal may be taken from any decision of the committee by any or all the petitioners, or by any of the school districts interested, to the Circuit Court of the County, in which the territory proposed to be included or excluded is situated, upon notice in writing to the other interested petitioners, that is, to the committee and school boards and boards of education interested, and the petitioners, as the case may be, by service upon any member of the committee or any member of each of the school boards or boards of education interested, and upon any one of the petitioners, if it be joint petition, and upon filing a bond with such Notice of Appeal in the office of the Clerk of Courts in the sum of \$250.00, with at least two sureties to be approved by the Clerk of Courts conditioned that appellant will pay all costs that may be adjudged against him. A copy of the notice of appeal shall also be served upon the County Superintendent. Said appeal to be taken within thirty days after the decision shall have been duly recorded as aforesaid, and notice thereof served upon the adverse petitioner or petitioners. Proof of the service of such Notice of Appeal by affidavit shall be filed with the Clerk of Courts, after the filing of the Bond for costs and proof of service of the Notice of Appeal in the office of the Clerk of Courts, the County Superintendent shall within five days transmit to the Clerk of Courts the petition and decision of the committee and all original papers in the matter in controversy. Such committee may be compelled by the court to transmit such decision and petition and original papers, and may be fined for neglect or refusal to transmit the same. The matter so appealed from shall be entitled in the names of the petitions appealing as plaintiffs, and the other interested parties as defendants. No notice of issue or notice of trial need be served, to have it placed upon the trial calendar and the same shall come on for trial in its regular order at the first regular term following the taking of the appeal. The trial in the Circuit Court shall be de novo, according to the rules relating to special proceedings of a civil nature and shall be triable to the court without a jury, and the court shall enter such final judgment or order as the circumstances of the case may require, which judgment or order may be enforced by a writ of exclusion, mandamus, prohibition, or by attachment as for contempt.

Approved March 6, 1923.

CHAPTER 178.

(H. B. 32)

RELATING TO TEACHERS' CERTIFICATES

AN ACT Entitled, An Act to Amend Sections 7 and 19, Chapter 181 of the Session Laws of 1919 Relating to Teachers' Certificates.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 7, Chapter 181 of the Session Laws of 1919 be amended to read as follows:

Section 7. **Second Grade Certificates.** A Second Grade Certificate shall be valid for not to exceed two years in all grades below the high school in the county in which the examination is held, and may similarly be made valid in any county by the indorsement of the county superintendent of the county. Applicants for certificates of this grade shall pass examination in orthography, reading, writing, arithmetic, physiology and hygiene, with special reference to the effect of alcoholic drinks, stimulants and narcotics upon the human system, geography, English grammar and composition, history of the United States, including South Dakota History, civil government, didactics and drawing; Provided, that a diploma from any state normal school or any school having a normal department approved by the Superintendent of Public Instruction, and a course of study in which at least two years' work beyond the approved eighth grade course in the public schools of South Dakota is required, and which shall include professional instruction and practice in teaching equal to one hour a week for two years, may be accepted by the Superintendent of Public Instruction in lieu of an examination for a second grade certificate; Provided, further, that from and after the first day of September, 1924, every applicant for a second grade certificate by examination or otherwise, must present evidence of having attended an approved normal school, or some other school having a normal department approved by the Superintendent of Public Instruction six weeks in the aggregate; except that satisfactory evidence of two years successful experience as a teacher may be accepted by the Superintendent of Public Instruction in lieu of such attendance at such approved schools.

Provided, that a diploma from an accredited four year high school maintaining a normal department approved by the Superintendent of Public Instruction and a course of study in which shall include professional instruction in pedagogy, including methods, principles of education, and school management and practice in teaching, may be accepted in lieu of an examination for a second grade certificate.

Provided further, that a second grade certificate may be extended for a period of not to exceed two years, if the holder thereof shall submit evidence of satisfactory teaching experience and at least eighteen weeks attendance at an approved Normal school or the Normal Department of some other school having a normal department approved by the Superintendent of Public Instruction during the life of such certificate.

Section 2. That Section 19, Chapter 181 of the Session Laws of 1919 be amended to read as follows:

Section 19. **Fees for Other Certificates.** Applicants for First, Second, or Third Grade Certificates, and for Primary Teachers Certificates, shall pay a fee of one dollar. All such fees shall be collected by the

county superintendent and shall be forwarded to the Superintendent of Public Instruction and such shall be deposited by him in the State Treasury in the manner provided by law for the fees of other certificates.

Section 3. All acts and parts of acts in conflict with this act are hereby repealed.

Approved February 17, 1923.

Elections

CHAPTER 179.

(S. B. 7)

TAMPERING WITH BALLOT BOXES, ETC.

AN ACT Entitled, An Act to Amend Section 3675 of the South Dakota Revised Code of 1919, Relating to Tampering With Ballot Boxes, Poll Lists and Ballots.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 3675 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 3675. Every person who wilfully breaks, destroys steals or conceals any ballot box or any poll list used or intended to be used at any election, or who, before the ballots have been counted or canvassed, or during the time within which a contest or recount may be instituted or is pending and undisposed of, shall wilfully deface, change, injure, destroy, steal or conceal any ballot or ballots which have been voted and deposited in any ballot box at an election, shall be guilty of a felony.

Approved March 7, 1923.

CHAPTER 180.

(H. B. 159)

RELATING TO POLLING PLACES IN CITIES AND TOWNS

AN ACT Entitled, An Act Relating to Establishing Polling Places in Cities and Towns. An Act to Amend Section 6325 of the Revised Code of 1919, as Amended by Chapter 186, Session Laws of 1919, Relating to Polling Places in Cities and Towns and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 6325 of the Revised Code of 1919, as amended by Chapter 186 of the Session Laws of 1919, is hereby amended to read as follows:

Section 6325. Election Precincts. Each ward shall constitute an election precinct, but whenever the number of legal voters in any ward shall exceed five hundred the governing body may, by ordinance, divide such ward into two or more precincts, and whenever the number of legal voters in any two or more contiguous wards shall not exceed two hundred and fifty, as determined by the last annual election, the governing body may, by ordinance, consolidate such two or more wards into one precinct for voting purposes; provided, such ordinance shall be passed and take effect before the time of giving notice of election, and except as provided in Section 7231, such wards and precincts shall be election precincts for all state and county elections; (Provided further, that if only one candidate is nominated for each office to be filled, and no question is to be submitted to the electors, the governing body may by resolution designate a less number of voting precincts, and separate ballots, ballot boxes and poll books need not be provided for the voters of each ward.)

Section 2. Whereas, this Act is necessary for the support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in force and effect from and after its passage and approval.

Approved February 27, 1923.

CHAPTER 181.

(H. B. 262)

RELATING TO THE NOMINATION AND ELECTION OF JUDGES

AN ACT Entitled, An Act Relating to the Nomination and Election of Judges of the Supreme Court, Circuit Court and County Court and Repealing Section 7121, Revised Code 1919 and Chapter 224 of the Laws of 1921.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Judges of the Supreme Court and Circuit Court shall be nominated and elected in the same manner as provided for the nomination and election of other constitutional state officers.

Section 2. County Judges shall be nominated and elected in the same manner as provided for the nomination and election of county officers.

Section 3. Candidates for the offices of Judge of the Supreme Court, Circuit Court or County Court shall make a declaration in writing to be filed with their nominating petitions that if nominated and elected they will qualify and they shall make no other or further declaration. The provisions of Section 7176 Revised Code 1919, shall not apply to any judge elected upon a party ticket.

Section 4. Section 7121 Revised Code 1919 and Chapter 224 of the Laws of 1921 are hereby repealed.

Approved February 27, 1923.

CHAPTER 182.

(S. B. 35)

RELATING TO PRIMARY ELECTIONS

AN ACT Entitled, An Act to Amend Sections 7098, 7104, 7106, 7107, 7108, 7117, 7120, 7122, 7132, 7134, 7135, 7157 of the South Dakota Revised Political Code of 1919, Relating to the Holding of Primary Elections.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 7098 of the Revised Code of 1919 be, and the same is hereby amended to read as follows:

§ 7098. **Words and Phrases.** The word "party" shall mean any political organization which has had candidates for state offices on the official ballot at the last general election, or which now has, or shall hereafter effect, a national organization. The word "primary" shall mean the May primary election provided for by this chapter to determine the party principles for platform and party nominations of candidates. The word "independent" shall mean any individual candidacy in the second column from the left on the primary ballot. The words "party central committee" shall mean an elected body of party members constituting the regular party organization; one party county central committeeman from each precinct within each county to constitute the party county central committee; and one party state committeeman from each county to constitute the party state central committee. Whenever the state central committee of any party meets, minutes of all transactions of the meeting shall be kept by the secretary of the meeting and shall be signed by the chairman, who shall immediately, upon adjournment of the meeting, file such minutes with the secretary of state or county auditor, as the case may require, who shall immediately record the same in the "political record book." The words "unit representation" shall mean that every party committeeman and proposalman representing the party electors of his precinct, county or state, at the regular party organization meetings, shall represent every party elector of the territory he represents by casting the same number of votes in said meeting as were cast for the candidate of his party for governor at the last general election. The word "leader" shall mean a party elector who, as an independent candidate for nomination for president or for governor, shall have made his campaign on one well defined and definite principle, as the paramount issue, as filed in the office of the secretary of state, and received a vote equal to ten per cent of the total party vote cast for governor at the primary election. Such leader, if he desires to continue his fight for his paramount issue, shall be invited by the five or more protesting state proposalmen to organize the representative proposal in column three, or he may be proposed by the state proposal meeting in column four. The words "party platform" shall mean any paramount issue and the declarations of principles and propositions, as filed with the secretary of state, which have been adopted by the state proposal meeting without opposition candidates; or, in case of submission to the primary vote, shall have received the highest vote at such primary election. The words "summary of principles" shall mean a condensed statement of one paramount issue, for national, state or county ballot motto, expressed in not to exceed eight words in each summary of principles, for use as a heading for representative group candidates proposed in column three or four of the official primary ballot. The word "declaration"

shall mean a statement, as hereinafter provided, signed by the party candidate and attached to his filing papers, pledging himself to qualify and obey the party recall, before his name shall appear on the official primary ballot, or in case of an appointive office as provided herein before the appointment shall be made. The words "political record book" shall mean a bound record book to be kept by the secretary of state, in which shall be recorded the transactions of political parties relating to state and national affairs, and a bound record book to be kept by each county auditor, in which shall be recorded the transactions of political parties relating to county affairs. The words "representative proposal" shall mean and include proposals of principles and candidates by the state and county proposal meetings and by protesting proposalmen at state and county proposal meetings: Provided, that but one set of protesting representative proposals shall be received and placed on each party ballot and, in case of more than one set of protesting representative proposals offered for filing, the one first offered to the secretary of state of such protesting state proposals, and the one first offered to the county auditor of such protesting county proposals, shall be received and filed. The words "official primary ballot" shall mean the official party ballot, printed by the auditor of each county for each party and used at the party primaries on the third Tuesday in May in even-numbered years in the order and form designated in section 7131; but no candidate's name shall appear upon the official primary ballot more than once in the same primary. The words "official party indorsement" shall mean the act of determining the party recommendation of party candidates for president and vice president. The word "precinct" shall mean a district established under the law within which qualified electors vote in one polling place. The words "November election" shall mean the general election. The words "party recall" shall mean the right and official act of the regular party organization by jury trial, for the causes and under the restrictions provided in this chapter, to request the resignation of any public official who has been elected or appointed to office as a party candidate.

Section 2. That Section 7104 of the Revised Code of 1919 be, and the same is hereby amended to read as follows:

Section 7104. **Precinct Proposalmen and Central Committeemen.** On or before February 15th, in each even-numbered year, the county auditor shall furnish for each precinct, and deliver to the chairman of the party central committee, a sufficient number of blank initiatory party organization precinct ballots for each party separately, for the election of one party county central committeeman, and three party precinct proposalmen, for said precinct at the expense of the county. Such initiatory ballot shall be in the following form:

INITIATORY ORGANIZATION PRECINCT BALLOT

for Party

..... Precinct

(Write in name of Precinct)

To vote your choice for party county central committeemen, write in the name of one resident party elector on the first blank line provided below. Also vote for three county proposalmen by writing in the names of three resident party electors of your choice to represent your precinct at county party proposal meetings:

.....For party county central committeeman
(Write in name of your choice)

.....For party county proposalman
(Write in name of your choice)

.....For party county proposalman
(Write in name of your choice)

.....For party county proposalman
(Write in name of your choice)

On this ballot you elect your precinct party representatives for the next two years.

Section 3. That Section 7106 of the Revised Code of 1919 be, and the same is hereby amended to read as follows:

Section 7106. Party Precinct Election of Party Central Committeeman and Proposalmen. On the first Tuesday in March of each even-numbered year, there shall be a party precinct initiatory election held in each election precinct throughout the state, to give the party members opportunity for representative organization of the party and elect party central committeemen and proposalmen. It shall be the duty of the party precinct committeeman in each precinct to give ten days notice, either by publication in a newspaper of general circulation in such precinct, or by posting in three public places of the place where such party precinct initiatory election will be held. Said party precinct initiatory election shall be called to order at eleven o'clock a. m. by the party precinct committeeman, or in his absence by any party member, and shall organize by electing two judges and two clerks of election. At said election every elector of the precinct shall have the right to vote at the election being held by the political party with whom such elector has identified himself: Provided, that when an elector shall offer his ballot, any judge, clerk or party elector shall have the right to challenge the right of the elector so offering to vote, either on the ground that he is not a qualified elector of the precinct, or that he is not identified with the political party at whose election he is offering to vote. On such challenge being made, if the elector shall make oath that he is a qualified elector of said precinct and that he is a member of the political party at whose primary he is offering to vote and that he is a member in good faith of such party, then the judges shall permit such elector to cast his ballot. The election shall be held open from eleven o'clock a. m. to four o'clock p. m., or as much longer as may be necessary, to enable all electors present to cast their ballots. The ballots shall be in the form prescribed in section 7104, or may be clean, white paper, and the names of the candidates proposed to be voted for shall be written thereon. At such elections there shall be three party county proposalmen and one precinct party county central committeeman elected. At the conclusion of the election the result of such election shall be certified by the judges and clerks, and such credentials shall entitle the proposalmen elected to cast the party vote of such precinct, at the party county proposal meeting, at the county seat, on the second Tuesday in March, and on the first Tuesday in April, of each even-numbered year.

Section 4. That Section 7107 of the Revised Code of 1919 be, and the same is hereby amended to read as follows:

Section 7107. Party County Proposal Meeting. On the second Tuesday in March following the holding of the initiatory precinct election, at the hour of eleven o'clock a. m., the precinct proposalmen, of each party, shall assemble, separately, at the county seat, at such place as shall be provided by the chairman of the party county central committee. The meeting shall be called to order by the chairman of the party county central committee, or in his absence by the secretary or any party precinct proposalman, and shall organize by the election of a chairman and secretary and such other officers as the meeting may deem necessary. At said meeting

there shall be elected by roll call three state proposalmen to represent the county in the party state proposal meeting, and issue credentials to such proposalmen, and, thereupon, the meeting shall adjourn to eleven o'clock a. m., of the first Tuesday of April following, at which date the precinct proposalmen shall reconvene and review the independent and representative state proposals within the party, and shall select and indorse a paramount state issue from such party state proposals. The party chairman of the county central committee shall obtain copies of the various independent and representative state proposals of his party, filed with the secretary of state, and upon calling the meeting to order shall immediately cause the same to be read. In case of disagreement as to indorsement of any representative party state proposal, the majority of the meeting shall have the first right to propose and file its candidates for county and legislative offices in either of the representative columns, on the ballot, which will contain the name of the candidate for chief executive whose national or state proposal they favor and the protesting proposalmen of five or more shall have the right to propose their candidates for county, legislative and district offices in the remaining representative column on the primary ballot by filing the form of representative proposal required with the county auditor, who shall cause their candidates' names to be printed accordingly in the proper column on the primary ballot. In such meeting each proposalman shall vote the number of votes equal to one-third of the number of votes cast at the preceding general election in his precinct for the party's candidate for governor. Upon the indorsement of a paramount issue, and proposal of candidates for county, legislative and district offices, the vote shall be by roll call. The result, or results, of the meeting shall be certified on the regular form of blanks for "Representative Party Proposal," provided in this chapter, by the chairman and secretary of the meeting, or by five or more protesting precinct proposalmen and filed with the county auditor, together with signed declarations by the proposed candidates.

Section 5. That Section 7108 of the Revised Code of 1919 be, and the same is hereby amended to read as follows:

Section 7108. Party State Proposal Meeting. On the third Tuesday in March of each even-numbered year, the party state proposalmen shall assemble at the state capital, at Pierre, at such place as the chairman of the party state central committee shall provide. Said meeting shall be called to order by the chairman of the state central committee, at eleven o'clock a. m., or in his absence by any proposalman present, and shall organize by the election of a chairman and two secretaries and such assistants and other officers as such meeting may determine upon. Proposalmen present shall constitute a quorum, and shall at all times act without subcommittees, as a committee of the whole, sitting in open and public session, and shall proceed to promulgate principles as representative proposals for party platform by adopting one plank at a time by roll call vote. Then select one paramount national issue and one paramount state issue from such party platform principles and prepare summary of principles for ballot heading. Then proceed to propose candidates for the several presidential, congressional and state offices and party representatives. Each proposalman in such meeting shall vote the number of votes equal to one-third of the number of votes cast in his county at the last general election, for his party's candidate for governor. All votes on selection of the paramount issue from the party platform principles and on candidates shall be by roll call vote. No paramount issue for party platform or candidate shall be proposed unless such paramount issue party platform or candidate shall have received a majority of all the votes entitled to repre-

sentation in the meeting. Provided, that if on or before the first Tuesday in April following said party state proposal meeting, one protesting proposal, signed by five or more dissenting state proposalmen entitled to vote in the state proposal meeting, shall be filed with the secretary of state, it shall be the duty of the secretary of state to also receive and file the same, and cause said protesting representative proposal to be certified to the county auditor, to have the summary of principles and names of candidates printed in column three on the official party primary ballot; the intention being, in addition to independent candidates, to permit only two state representative proposals to be printed on any one party ballot. The principles and candidates proposed by the state proposal meeting shall always be printed in the fourth column and the protesting state proposal, signed by five or more state proposalmen, shall always be printed in the third column of the official party primary ballot. Each proposalman, who shall attend such party state proposal meeting, shall receive payment of five cents per mile for each mile necessarily traveled in going to and returning from such state meeting by filing a written receipted sworn statement thereof with the secretary of state, who shall deliver the same to the state auditor who shall see to its auditing and forward a warrant therefor, to the person who filed such statement, it being the intention hereof that the state shall pay all such mileage expense herein provided; except that in case of failure of the state proposal meeting or protesting proposalmen to propose and file principles and candidates, then such proposalmen shall not be entitled to mileage.

Section 6. That Section 7117 of the Revised Code of 1919 be, and the same is hereby amended to read as follows:

Section 7117. **Individual Candidate Proposal Petition.** The name of no party candidate for president, vice president, presidential elector, United States senator, member of congress, state offices, national committeeman, delegates and alternates to national conventions, party state chairman, county legislative and district offices, or member of any party state central committee, shall be printed upon the official party ballot used at any primary held, as herein provided, except the candidates of two representative proposals within each party as herein provided, unless on or before April fifteenth, before the date of the primary, an individual candidate proposal petition shall have been filed in the office of the secretary of state, or county auditor, as the provisions of this chapter require, in substantially the following form:

INDIVIDUAL CANDIDATE PROPOSAL BY PETITION

We, the undersigned, qualified party electors of the state of South Dakota, do hereby promulgate the following principles:

(If the proposal is not for candidate for president or governor then no statement of principles and paramount issue needs be made.)

.....

 and select the following well defined and definite principle for a public policy, as the paramount issue:.....

(Limited to eight words)

and do hereby propose for nomination.....
 who resides at in county, state
 of and whose postoffice address is

South Dakota, and who is an elector of the party, for the office of to be voted for at the primary to be held on the fourth Tuesday of May next; and we, and each of us for himself severally, do further declare that we intend to support the candidate named herein at said primary and to vote the party ticket at the following November election.

Name of Signers	Postoffice	Precinct	County	Date of Signing
.....
.....
.....
.....

DECLARATION OF CANDIDATE

I do hereby declare that if nominated and elected I will qualify, adhere to the principles herewith proclaimed and obey the party recall if invoked against me.

Signature of Candidate	Residence	Postoffice address
.....

Section 7. That Section 7120 of the Revised Code of 1919 be, and the same is hereby amended to read as follows:

Section 7120. Joint Legislative District Independent Proposal Petitions. In legislative districts composed of more than one county, the individual proposal petition in behalf of a candidate for the legislature from such district shall be filed in the office of the secretary of state on or before April fifteenth, prior to the holding of the primary. Said individual proposal petition shall be substantially in the same form as provided in section 7117, and shall have affixed thereto the signatures of at least fifty party electors of the joint legislative district, with the same requirement as to form of execution and declaration; and the timely filing thereof shall entitle the candidate to have his name printed upon the official ballot used by his party at the primary in each county in such legislative district. No representative proposal of candidates in joint legislative districts is provided herein. Candidates for legislative office in joint legislative districts are required to file as independent candidates at the primary.

Section 8. That Section 7122 of the Revised Code of 1919 be, and the same is hereby amended to read as follows:

Section 7122. Representative Proposal. The name of no candidate for president, vice president, presidential elector, United States senator, member of congress, state offices, county legislative or district offices, nor national committeemen, delegates and alternates to national conventions, party state chairman, nor candidate for member of any party state central committee, shall be printed in the third or the fourth column hereafter designated upon the official party primary ballot used at any primary held, as herein provided, unless on or before April fifteenth prior to the date of the primary, except as otherwise provided, a representative proposal signed either by the chairman and secretary of the party state or county proposal meeting, or by five or more protesting state or county party proposalmen, shall have been filed in the office of the secretary of state or county auditor, as the provisions of this chapter require, in the following form, as far as applicable to the office proposed:

REPRESENTATIVE PARTY PROPOSAL

We, the undersigned chairman and secretary of the state proposal

meeting (or, we, the undersigned, five or more protesting county or state proposalmen) of the.....party, of the state of South Dakota, do hereby certify that the following principles are proposed (or indorsed) for the party platform:

.....

and that the following well defined and definite principle for a public policy is selected (or indorsed) as the paramount issue:

.....

and that the following named persons are proposed as candidates for nomination to the respective offices named to be voted for at the primary on the third Tuesday of May next.

Name	Office
.....	For.....
.....	For.....
.....	For.....

We also indorse.....
 For President of the United States

We also indorse.....
 For Vice President of the United States

and we desire the following summary of principles to be placed (or indorsed) at the head of the (third or fourth) column of the official primary ballot as representing the above principle as the paramount issue.

.....National Summary of Principles.
 (Limited to eight words)

.....State Summary of Principles.
 (Limited to eight words)

.....County Summary of Principles.
 (Limited to eight words)

and request that the foregoing names be printed in a group under said summary of principles in the (third or fourth) column upon the official party primary ballot, as representing the paramount issue above set forth, to be voted for at the primary to be held on the fourth Tuesday in May next, and we, each of us, do hereby declare that we intend to support the principles and candidates named herein at said primary, and to vote theparty ticket at the following November election.

(Signature of chairman and secretary, or five or more protesting proposalmen to be affixed.)

Signature	County	Precinct	P. O. Address	Date
.....
.....

DECLARATION OF CANDIDATES

I (or we) do hereby declare if nominated and elected, I (or we) will qualify, adhere to the principles herewith proclaimed and obey the party recall if invoked against me (or us).

Signature of Candidates	Residence	P. O. Address
.....
.....

Section 9. That Section 7132 of the Revised Code of 1919 be, and the same is hereby amended to read as follows:

Section 7132. Duty of State Officers. It shall be the duty of the secretary of state and attorney general on or before January first, preceding the primary held under this chapter, to prepare all forms of blanks necessary to carry out the provisions of this chapter. At least thirty days before any primary, the secretary of state shall transmit, to each county auditor of the territory in which any candidate seeks nomination, a certified abstract of the proposal filings made in his office for each party separately. Such abstract shall be in the form of the party official primary ballot prescribed herein and give the name of the party; the names of the independent candidates; the names of the representative candidates for column three with national and state summary of principles filed for ballot heading; the name of the representative candidates for column four with national and state summary of principles filed for ballot heading; and the name of the office for which each candidate is proposed: Provided, that the secretary of state shall not certify to the county auditor the name of any candidate who is required to challenge or debate under this chapter if such candidate shall have failed to challenge or refuse to debate as provided in section 7126, and the name of such candidate shall not be printed on the primary ballot. Neither shall the secretary of state certify the name of a candidate to the county auditor when such candidate is the only proposed candidate for nomination to any one office in any one party: such candidate, having no opposition, shall by the mere filing of his proposal papers become the state nominee of his party for such position, at the November election, and shall be so certified by the secretary of state without any primary vote and the name of such candidate, or the office he seeks, shall not be printed upon the party primary election ballot. It shall be the duty of the secretary of state to procure a bound record book, ruled and the pages numbered, to be known as the political record book, in which he shall record transactions of political parties as filed in his office.

Section 10. That Section 7134 of the Revised Code of 1919 be, and the same is hereby amended to read as follows:

Section 7134. Primary—When Held. The primary election herein provided for shall be held at the regular polling place in each precinct throughout the state on the fourth Tuesday in May in each even-numbered year, between the hours of eight o'clock a. m. and five o'clock p. m., and any person entitled to vote at such primary election, who is an employe, shall be entitled to the same privileges from his employer for the purpose of voting at a primary election as are given him by law at the general election in November.

Section 11. That section 7135 of the Revised Code of 1919 be, and the same is hereby amended to read as follows:

Section 7135. Notice of Primary Election. Not less than thirty days prior to the holding of the primary, the county auditor shall prepare a notice in substantially the following form:

NOTICE OF PRIMARY ELECTION.

Notice is hereby given, that a primary election will be held at the regular polling places in all the voting precincts of.....
County, South Dakota, on the.....day of May, 19....

between the hours of eight o'clock a. m., and five o'clock p. m., for the purpose of allowing the members of each political party in the state by a direct vote to choose the paramount issue for party platform and propose their several party candidates for all presidential, state, congressional, legislative, county and district offices, which are to be filled by election at the next general election, and to elect party, national, state, county committeemen and state party chairman and delegates and alternates to the national convention.

Dated this.....day of.....19.....

County Auditor.

Section 12. That Section 7157 of the Revised Code of 1919 be, and the same is hereby amended to read as follows:

Section 7157. **State Canvassing Board—Duties.** Immediately upon receiving returns from the county auditors of all the counties, as provided in the preceding section, the same shall be canvassed by the same state officers as are directed by the general election laws to canvass returns after a general election. Such canvassing boards shall, without delay, open the returns and certify tabulated statements thereof separately for each political party. Such statements shall show, under appropriate headings, the total number of votes cast for each candidate in whose behalf a representative proposal or petition was filed in the office of secretary of state, and after being signed by the members of said board and attested by the great seal of the state, shall be filed in the office of the secretary of state; Provided, however, that in order to save time in issuing credentials to delegates to the National Conventions in Presidential Election years the county canvassing boards immediately upon canvassing the votes for delegates to the national convention shall forward to the proper party chairman of the state central committee an abstract showing the vote cast for the candidates for delegates in the several counties of the state and such chairman and secretary of said committee shall have power, and it shall be their duty, to canvass the same and to issue credentials to the delegates who have received the highest number of votes in the state.

Approved March 12, 1923.

CHAPTER 183.

(S. B. 57)

PROVIDING FOR REGISTRATION FOR PRIMARY ELECTIONS

AN ACT Entitled, An Act to Provide for the Registration of Electors For Any Primary Election That May be Held in the State of South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. **Party Registration.** No elector in the State of South Dakota shall be permitted to vote at any party primary election unless he is duly registered as hereinafter provided, or unless he shows by substantial affidavit that he is entitled to vote in such primary.

Section 2. **Notice of Party Registration.** The County Auditor shall publish a notice in the official newspapers of the county for at least two issues, commencing with the fourth issue prior to the primary date, which notice shall be in the following form:

**"NOTICE OF REGISTRATION
NOTICE IS HEREBY GIVEN TO ALL ELECTORS OF.....**

..... County, that a Primary Election will be held on the day of, 19....., for the purpose of placing in nomination such candidates for State, County and Legislative officers whose names may be placed upon the primary ballot in compliance with the provisions of law, and no person will be allowed to vote any party ballot at such primary election unless he has registered his party affiliation with the County Auditor at least fifteen days before the date of such primary election. Any qualified elector can register in person with the County Auditor or by card by mail.

..... County Auditor.

..... County."

Section 3. Registration by Card. The County Auditor shall prepare cards with the notice provided for in Section 2 of this Act printed upon the back thereof and upon the face the following:

"Fill Out, Sign and Return.

To County Auditor:

I hereby declare that I am a member of the party and a qualified elector of precinct; that I intend to vote the ticket at the primary and support at the general election in November the nominees of such primary and such other candidates whose names may appear upon the above General Election ballot, which may be placed thereon in compliance with law. And you are directed to register me as at

Dated this day of, 19.....

Signed, Elector."

On or before thirty days prior to any such primary the County Auditor shall mail one of such cards to each elector of the county as shown by the registration list on file in his office from the last general election and to any other qualified elector of the county that may come to his knowledge.

Section 4. Registration Books. From the names that have been registered in person and by card the County Auditor shall prepare the party registration book for each precinct of the county designating each registered elector by the initial of the name of the party for which he registered. Thus if he is a Republican "R", if a Democrat "D", etc., and furnish such registration books to the superintendent of the primary election judges when the election supplies are delivered to be used in such precinct at such primary election.

Section 5. Duty of Judges of Election. It shall be the duty of the judges of election when an elector demands a ballot to ascertain from the registration book whether or not he is registered and if he is registered for what political party and if his name is found on the registration book to deliver to him the party primary ballot of the party he had declared he was a member of in his registration and for no other. If his name is not found in the registration book he is not entitled to vote for any party candidate and must be refused a ballot unless he makes affidavit substantiated by two registered electors of the political party of which he claims to be a member, resident of the precinct in which he offers to vote showing that he is a member of the party in

which he seeks to vote and that he failed to register on account of some unavoidable circumstance, and when such affidavit, properly substantiated, as above provided, has been made it shall be the duty of the ballot clerk to deliver to him a ballot. When the election is closed and canvass is completed the registration books shall be placed in the ballot box together with the affidavits of unregistered electors who have been permitted to vote and returned to the County Auditor and kept in his office as permanent records.

Section 6. When No Primary Is Called. If no primary election is necessary to be held under the provisions of law in any county of the State, the County Auditor of any such county shall not mail any such cards or prepare such registration books as provided by this Act.

Approved March 7, 1923.

Estates of Decedents

CHAPTER 184.

(H. B. 68)

RELATING TO INHERITANCE BY ILLEGITIMATE CHILDREN

AN ACT Entitled, An Act to Amend Section 703 of the South Dakota Revised Code of 1919, Relating to Inheritance by Illegitimate Children.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 703 of the South Dakota Revised Code of 1919 is hereby amended to read as follows:

Section 703. Inheritance by Illegitimate Children. Every illegitimate child is an heir of the person who, in writing, signed in the presence of a competent witness, acknowledges himself to be the father of such child; and in all cases is an heir of his mother; and inherits his or her estate, in whole or in part as the case may be, in the same manner as if he had been born in lawful wedlock. He shall represent his mother equally with her legitimate children by inheriting any part of the estate of her kindred, either lineal or collateral; but he does not represent his father by inheriting any part of the estate of his kindred, either lineal or collateral, unless before his death his parents shall have intermarried, and his father after such marriage acknowledges him as his child, or adopts him into his family; in which case such child and all the legitimate children are considered brothers and sisters, and on the death of either of them, intestate, and without issue, the others inherit his estate, and are heirs, as hereinbefore provided, in like manner as if all the children had been legitimate; saving to the father and mother, respectively their rights in the estates of all the children in like manner as if all had been legitimate. The issue of all marriages null in law or dissolved by divorce, are legitimate.

Approved March 12, 1923.

CHAPTER 185.

(S. B. 125)

RELATING TO PARTITION

AN ACT Entitled, An Act to Amend Section 3477 of the South Dakota Revised Code of 1919 as Amended by Chapter 229 of the Session Laws of 1921, Relating to Partition of Real Property of an Estate After an Assignment by an Heir or Devisee.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 3477 of the South Dakota Revised Code of 1919 as amended by Chapter 229 of the Session Laws of 1921, be and the same is hereby amended to read as follows:

"Section 3477. When Interest Has Been Conveyed by Heir or Devisee." Partition of the real property of the estate may be made as provided in this chapter although some or all of the heirs or devisees may have conveyed their share to other persons, and such shares must be assigned to the persons holding the same, in the same manner as they otherwise would have been to such heirs or devisees.

Approved February 27, 1923.

CHAPTER 186.

(H. B. 152.)

RELATING TO SUCCESSION

AN ACT Entitled, An Act to Amend Subdivision 2 of Section 701 of the Revised Code of South Dakota for 1919 Relating to the Order of Succession.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Subdivision 2 of Section 701 of the Revised Code of South Dakota for 1919 relating to the Order of Succession is hereby amended to read as follows:

2. If the decedent leaves no issue and the estate does not exceed in value twenty thousand dollars, all the estate goes to the surviving husband or wife; if the estate exceeds twenty thousand dollars, then the first twenty thousand dollars goes to the survivor, and of all property in excess of twenty thousand dollars in value, one-half goes to the surviving husband or wife, and the other half goes to the decedent's father and mother in equal shares, and if either is dead, the whole goes to the other, but if neither survive then such portion goes in equal shares to the brothers and sisters of the decedent and to the children or grand children of any deceased brother and sister by right of representation. If the decedent leave no issue, nor husband, nor wife, the estate must go to his father and mother in equal shares, or if either is dead, then to the other.

Approved March 2, 1923.

Extradition

CHAPTER 187.

(S. B. 103)

GIVING EXTRADITION AGENTS THE AUTHORITY OF LOCAL OFFICERS OVER PRISONERS

AN ACT Entitled, An Act Conferring Certain Powers on Peace Officers, Extradition Agents and Officers of Penal Institutions From Other States While Transporting Persons in Their Custody Within This State.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. Any peace officer or extradition agent of another state bringing any person within this state or transporting such person through the state under a warrant of arrest or extradition warrant issued in another state or the officer of any penal institution of another state conveying or transporting a prisoner of such institution into or through this state shall have the same authority as to the custody and restraint of such person while in the State of South Dakota as duly constituted peace officers of this state have in making an arrest under the process issued by the courts of this state or under the laws of this state.

Approved February 19, 1923.

Food and Drugs

CHAPTER 188.

(H. B. 185)

RELATING TO BREAD

AN ACT Entitled, An Act to Amend Section 1 of Chapter 239 of the Session Laws of 1921, Relating to Standard Weights for Bread, and for the Protection of the Public Health by Preventing the Return of Bread or Other Bakery Products to Dealers or Bakers.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 1 of Chapter 239, Session Laws of 1921, be and the same is hereby amended to read as follows:

Section 1. (a) It shall be unlawful for any person, firm or corporation to sell in this state, bread in loaves of any other weights than the following standard avoirdupois weights: one pound, one and one-half pounds, and any greater weight which is a multiple of one-half pound. These shall be the standard weights of bread to be sold in this State, and bread shall not be sold except of these weights; provided, however, that the provisions of this act regarding weight shall not apply to biscuits, buns, crackers, rolls, or to what is commonly known as "stale bread" and sold as such, if the seller at time of sale shall expressly state to the buyer that the bread so sold is "stale" bread, and provided further, that commercial bread shall be deemed stale forty-eight hours after baking. When twin or multiple loaves are baked, the weights specified in this section shall apply to each unit of the twin or multiple loaf, but nothing in this act shall be construed to prohibit making a twin loaf of total weight of twenty-four ounces, if the same be wrapped and sold as one twenty-four ounce loaf. There shall be printed upon the wrapper of each loaf of bread in plain and conspicuous type the name and address of the manufacturer of the bread and the weight of the loaf in terms of one of the standard weights herein specified, or in lieu of statement of weight, a declaration that the wrapped loaf is a standard weight loaf. The State Food and Drug Commissioner shall enforce the provisions of this act and shall adopt and establish, in the manner provided by law, rules for such enforcement, including reasonable tolerances and variations within which all weights shall be kept; provided, however, that such tolerances shall apply only to individual loaves, and variations from the standard weights herein prescribed shall be as often above as below the standard and the average weight of all loaves of the same designated weight and kind produced by any baker shall at least equal the standard weight which such loaves are indicated by the label or otherwise represented as weighing.

(b) No bread or other bakery products shall be returned from any consumer or other purchaser to the dealer or baker, nor from any dealer to the baker, nor shall any baker or dealer directly or indirectly accept any returns from or make any exchange of bakery products with any person. All such products shall be kept moving to the consumer without unreasonable delay, and without any practice whatsoever which may disseminate

disease or contagion among or inflict fraud upon the consumer, or disseminate the infection known as "rope" or other infection in bakeries, or otherwise cause waste in the food supply.

Approved March 12, 1923.

CHAPTER 189.

(S. B. 176)

RELATING TO BUTTER SUBSTITUTES

AN ACT Entitled, An Act to Prohibit the Use of the Names of Dairy Breeds of Cattle and Dairy Terms in Advertising Substitutes for Butter.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. No person, firm or corporation shall use in any way, in connection or association with the sale or exposure for sale or advertisement of any substance designed to be used as a substitute for butter, the word "butter," "creamery," or "Dairy," except as required by the dairy law of this state, or the name or representation of any breed of dairy cattle or any combination of such word or words and representation, or any words or symbols or combination thereof commonly used in the sale of butter.

Penalty: Whoever violates the provisions of this act shall, upon conviction be liable to a fine of not less than ten dollars nor more than one hundred dollars.

Approved March 12, 1923.

CHAPTER 190.

(H. B. 40.)

RELATING TO TRAFFIC IN EGGS

AN ACT Entitled, An Act to Amend Section 6 of Chapter 208 of the Session Laws of 1919, Relating to Traffic in Eggs.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6 of Chapter 208 of the Session Laws of 1919 be and the same is hereby amended to read as follows:

Section 6. Every person, firm or corporation engaged in the business of buying eggs in this state for resale or consignment shall provide and maintain an adequate place for the accurate candling of eggs and a suitable place for the proper handling of eggs which are intended to be used, or sold to be used, for human food. Persons, firms, or corporations buying eggs from producers shall render to the producer after such eggs have been candled as herein required a statement which shall show the total number of eggs received from the producer and the number of eggs rejected by the process of candling as unfit for human food.

Approved March 2, 1923.

CHAPTER 191.

(S. B. 159.)

RELATING TO HABIT FORMING DRUGS

AN ACT Entitled, An Act to Amend Sections 7858 and 7862 and to Repeal Section 7863 of the South Dakota Revised Code of 1919, Relating to the Regulation of the Traffic in Habit Forming Drugs.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 7858 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 7858. **Sale and Distribution Regulated.** It shall be unlawful for any person to sell, barter, distribute or give away any opium, coca leaves, or any compound, manufacture, salt, derivative or preparation thereof; provided that this article shall not apply:

1. To the dispensing or distributing of any of such drugs to any patient by a duly licensed practicing physician, either in person or by a duly authorized nurse or attendant in charge of such patient; provided, such distribution or dispensing shall be in the course of his professional practice only and that such physician shall personally attend such patient.

2. To the sale, dispensing or distribution of any such drugs by registered pharmacists, to a consumer under and in pursuance of a written prescription issued by a duly licensed and practicing physician; provided, however, that such prescription shall be dated as of the date on which it is signed, and shall be signed by the physician who shall have issued the same; and provided further, that such prescription shall not be filled later than five days after the date thereof, and shall not be refilled, and the person filling such prescription shall indorse thereon the date of filling the same, and the name and address of the person to whom he delivers the drug as prescribed.

3. To the sale or dispensing of any such drugs by any wholesale druggist, dealer or jobber within this state, to registered pharmacists within this state owning and conducting a retail drug store, or to a duly licensed and practicing physician, dentist or veterinarian, within this state.

4. To the sale or distribution of any of such drugs by any registered pharmacist owning and conducting a retail drug store within this state, to a regularly licensed and practicing physician, dentist, or veterinarian within this state.

5. To the administering of any of such drugs to any patient by a duly licensed and practicing physician within this state; provided, however, that such administering shall be in the course of his professional practice only.

6. To the administering of any such drugs by any duly licensed veterinarian in this state to any animal which such veterinarian may be treating in the course of his professional practice.

Section 2. That Section 7862 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 7862. **Limit to Quantity in Preparation.** The provisions of this article shall not be construed to apply to the sale, distribution, giving away, or dispensing of preparations and remedies which do not contain more than two grains of opium or more than one-fourth of a

grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them, in one fluid ounce; or to liniments, ointments, or other preparations which are prepared for external use only, except liniments, ointments and other preparations which contain cocaine or any of its salts, or alpha or beta eucaine or any of their salts, or any synthetic substitute for them; provided, that such remedies and preparations are sold, distributed, given away, dispensed or possessed as medicine and not for the purpose of evading the intentions and provisions of this article; and provided further, that any manufacturer, producer, compounder or vendor, including dispensing physicians, of the preparations and remedies mentioned in this section, shall keep a record of all sales, exchanges or gifts of such preparations and remedies in such manner as the Commissioner shall direct, but such direction shall be in conformity with the regulations of the Commissioner of Internal Revenue of the United States Department of the Treasury for the keeping of such records. All records shall be kept for a period of two years, in such a way as to be readily accessible for inspection by any officer named in Section 7859 of this article. This article shall not apply to decocainized coca leaves, or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine.

Section 3. That Section 7863 of the South Dakota Revised Code of 1919 be and the same is hereby repealed.

Approved March 8, 1923.

CHAPTER 192.

(S. B. 175)

REGULATING THE MANUFACTURE AND SALE OF MILK PRODUCTS

AN ACT Entitled, An Act to Regulate the Manufacture and Sale of Condensed and Evaporated Milk Containing Foreign Fats and Condensed or Evaporated Skim-Milk and Skim-Milk Powder and Fixing a Penalty for Violation Thereof.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to manufacture, sell or exchange, or have in possession with intent to sell or exchange, any milk, cream, skim-milk, butter-milk, condensed or evaporated milk, powdered milk, condensed skimmilk, or any of the fluid derivatives of any of them to which has been added any fat or oil other than milk fat, either under the name of said products or articles or the derivatives thereof or under any fictitious or trade name whatsoever.

Section 2. It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to sell or exchange, or expose for sale or exchange, or have in possession with intent to sell or exchange, any condensed, evaporated or powdered skim-milk in containers holding less than ten (10) pounds avoirdupois net weight and each said container shall bear the name and address of the manufacturer, distinctly branded, indented labeled or printed thereon, together with the words "condensed skim-milk," or "powdered skim-milk,"

as the case may be, in Roman letters of a size at least as large as any other words or letters appearing on said brand, indentation or label.

Section 3. Any violation of any of the provisions of this section is hereby declared to be a misdemeanor and any person whether individually or as a member of a partnership or as a responsible agent or officer of a corporation who shall be convicted of such violation, either on his own behalf or in the interests of a corporation shall be punished by imprisonment in the county jail for not less than thirty days nor more than sixty days or by a fine of not less than fifty dollars nor more than one hundred dollars or by both such fine and imprisonment.

Section 4. The Dairy Expert by himself or by his assistants, chemists, inspectors or agents, shall be charged with the enforcement of the provisions of this section.

Section 5. Nothing in this section shall be construed to prohibit the shipment into this state from a foreign state and the first sale thereof in this state in the original package intact and unbroken, of any of the products or articles, the manufacture, sale or exchange of which or possession of which, with intent to sell or exchange is prohibited hereby.

Section 6. Should any subsection or subsections or any part of a subsection or subsections of this section become or be declared to be inoperative or void for any cause or reason whatsoever, the remainder of the subsection or of such subsections shall be and remain in full force and effect.

Approved March 12, 1923.

CHAPTER 193.

(H. B. 188)

DEFINING THE TERM "MISBRANDED"

AN ACT Entitled, An Act to Amend Section 7809 of the Revised Code of 1919, Relating to the Labeling of Food Products.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 7809 of the Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 7809. "Misbranded" Defined. The term "misbranded" as used in this article, shall apply to all substances used as food or which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such substance or the ingredients contained therein which shall be false, deceptive, or misleading in any particular, and to any food product which is falsely branded as to the state, territory or country in which it is manufactured or produced; and for the purpose of this article a food product shall also be deemed to be misbranded.

1. If it be an imitation of or offered for sale under the distinctive name of any other food product.

2. If it be so labeled or branded as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such

package, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any such substance contained therein.

3. If in package form and the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count, together with the name and address of the real manufacturer or jobber or other person responsible for placing the product upon the market; provided, however, that reasonable variations as to the quantity of the contents of package shall be permitted, and tolerance and exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of Section 7793.

4. If the package containing it, or its label, shall bear any statement, design or device regarding the ingredients, or the substance contained therein, which statement, design or device shall be false or misleading in any particular; provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases: First, in the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with the statement of the place where said article has been manufactured or produced; second, in the case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends, and the word "compound," "imitation," or "blend," as the case may be, together with a statement of the character and constituents thereof, is plainly stated on the package in which it is offered for sale; provided, that the term "blend," as used herein, shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only; and provided, further, that nothing in this Act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods, which contain no unwholesome ingredients, to disclose their trade formulas, except in so far as the provisions of this Act, (or the rules and regulations of the State Food and Drug Commissioner may require to secure freedom from adulteration or misbranding.)

Approved February 27, 1923.

CHAPTER 194.

(H. B. 107.)

RELATING TO SALE OF POISONS

AN ACT Entitled, An Act to Amend Section 7845, 7846 and 7849 of the South Dakota Revised Code of 1919, Relating to the Sale of Poisons by Persons Other Than Registered Pharmacists.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 7845 of the Revised Code of 1919 is hereby amended to read as follows:

Section 7845. Sale by Merchant. A merchant handling exclusively goods other than goods used for food, may procure a certificate of authority as provided in this article, and thereupon shall be authorized to sell the poisons known as paris green, lead arsenate, formaldehyde, and insect powders; provided, however, that this section shall not apply to the sale of strychnine, arsenic, corrosive sublimate or carbolic acid. Provided that in any town where there is no registered pharmacists and there is a merchant handling exclusively goods other than goods used for food or a merchant who handles goods used for food and who also handles goods other than those used for food in a separate department from that in which goods are handled and sold for food purposes, it shall be competent for such merchant to sell poisonous drugs known as paris green, formaldehyde, wood alcohol, rat poison, gopher poison, and insect powder, provided however, that this shall not apply to the sale of strychnine, arsenic, corrosive sublimate or carbolic acid.

Section 2. That Section 7846 of the Revised Code of 1919 is hereby amended to read as follows:

Section 7846. Sale in Original Packages. The poisons enumerated in the preceding section shall be sold by such merchant only in original packages, and each package shall be labeled, and marked in plain and distinct red letters "Poison," each letter thereof to be at least one-fourth inch in length, with the figures of the "Skull and cross bones" printed in red thereon.

Section 3. That Section 7849 of the Revised Code of 1919 is hereby amended to read as follows:

Section 7849. Violation—Penalty. Any person who violates any provision of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for a period not exceeding thirty days or by a fine of not less than Twenty-five Dollars and not more than One Hundred Dollars, or both such fine and imprisonment. A conviction hereunder shall operate to invalidate and cancel a certificate of authority to sell the poisons enumerated in this article.

Approved March 9, 1923.

CHAPTER 195.

(S. B. 290.)

RELATING TO UNFAIR DISCRIMINATION IN BUYING DAIRY PRODUCTS

AN ACT Entitled, An Act Relating to Unfair Discrimination in Buying, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. Discrimination in Buying. Any person or corporation, foreign or domestic, doing business in this state and engaged in the business of buying milk, cream, butter, butter-fat, or any other dairy product, that shall intentionally, for the purpose of injuring or destroying the business or trade of a competitor in any locality or to prevent or destroy competition by any person, who in good faith, intends or attempts to engage in such business, discriminate between different sections, communities, or cities of this state, by paying for such milk, cream, butter, butter fat or any other dairy product, a higher price in one section, community or city, than such person or corporation is at the same time paying for such property in another section, community, or city within the state, after making due allowance for the difference, if any, in the grade or quality and in the actual cost of transportation from the point where same is purchased to the market where it is sold, or intended to be sold, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared unlawful.

Section 2. Prima Facie Evidence of Discrimination. Proof of the buying of any such product, a commodity or property by any person, firm or corporation at a higher price or rate in one section, community, or city of this state than is paid for the same commodity by such person, firm, or corporation in another section, community or city of this state after making due allowance for the difference, if any, in the grade or quality and in the actual cost of the transportation from the point where the same is purchased, to the market where it is sold, or intended to be sold, shall constitute prima facie evidence of a violation of this Act.

Section 3. Penalty. Any person or corporation violating any provision of this act shall, upon conviction thereof, be fined not less than Two Hundred Dollars nor more than Ten Thousand Dollars for such offense.

Section 4. Duty of Attorney General. If complaint shall be made to the Attorney General that any corporation is guilty of unfair discrimination as defined by this act, he shall investigate such complaint, and for that purpose he may subpoena witnesses, administer oaths, take testimony and require the production of books or other documents, and, if in his opinion sufficient grounds exist therefor, he may prosecute an action in the name of the state in the proper court to annul the charter or revoke the permit of such corporation from doing business in this state, and if in such action the court shall find that such corporation is guilty of unfair discrimination as defined by this act, such court may annul the charter or revoke the permit of such corporation, and may permanently enjoin it from transacting business in this state.

Section 5. Every person, firm or corporation, foreign or domestic, doing business in this state, operating a creamery or cream buying station, or engaged in the business of buying milk, cream, butter, butterfat,

or any other dairy product, whether as agent or otherwise, shall at all times keep posted in the front window or on the front of the building or place where such business is transacted, a sign printed in letters and figures at least two inches in height, and so printed and posted as to be plainly legible from the outside of such building or place, stating and showing the price being offered or paid for such dairy products, and every such person or corporation shall also keep, in writing, at such building or place, a permanent record showing the price offered or paid for each kind of such dairy products and the exact time when each change in price was posted and such record shall at all times be subject to inspection and examination by any person interested, without giving any reason therefor.

Section 6. Every person, firm or corporation paying for any such dairy products any other price than that posted, as required by the foregoing section or violating any of the provisions of the foregoing section, or failing to comply with the provisions thereof shall be guilty of a misdemeanor, and the judgment of conviction shall operate as a forfeiture of the license to engage in such business.

Section 7. **Remedies Cumulative.** The remedies provided for in this act shall be construed as cumulative and not exclusive.

Section 8. Whereas, this act is necessary for the immediate support of the state government and its existing institutions, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

Game and Fish

CHAPTER 196.

(H. B. 309)

RELATING TO FISH

AN ACT Entitled, An Act to Amend Section 10474 of the Revised Code of 1919, Relating to Fishing Regulations.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 10474 of the Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 10474. No person shall catch, take or kill more than twenty-five protected fish, except perch, in any one day nor have in possession at any time more than fifty of such fish, except perch, nor shall such fish be taken in any other manner than with a hook and line, except as otherwise expressly provided. It shall be unlawful to use more than two lines, nor shall more than three hooks be attached to each line. Provided that it shall be unlawful to take trout at any time by the

means of what are commonly known as "grab-hooks" or "snag-hooks." No person shall have in his possession any fish caught, taken or killed in any of the waters of this state except as provided by law; provided, that suckers, redhorse, buffalo, carp, catfish and bullheads may be taken with a spear without limit at any time, except upon boundary streams and waters between the State of South Dakota and bordering states, but no artificial lights shall be used in the taking of such fish during the months of May and June; provided, further, that the state game and fish commission may, in its discretion, at such times and under such restrictions as it may deem proper, permit the use of seines and other nets in taking scavenger and non-game fish from the inland streams and lakes of the state or from the boundary streams and waters between this state and bordering states, so far as the jurisdiction of this state extends.

Approved March 12, 1923.

CHAPTER 197.

(H. B. 304.)

RELATING TO FISH

AN ACT Entitled, An Act to Amend Section 10476 of the Revised Code of 1919 Relating to the Protection of Food and Game Fish.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 10476 of the Revised Code of 1919 be amended to read as follows:

Section 10476. It shall be unlawful for any person to catch, kill or have in possession for any purpose, any pike less than eight inches in length, or any bass except rock bass less than seven inches in length, or any trout, shad or croppies less than six inches in length.

Approved March 8, 1923.

CHAPTER 198.

(H. B. 301)

RELATING TO DAYLIGHT SHOOTING

AN ACT Entitled, An Act to Amend Section 10509 of the Revised Code of 1919, Relating to the Protection of Game.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 10509 of the Revised Code of 1919 be amended as follows:

Section 10509. No person shall at any time hunt, take or kill migratory waterfowl in this state between half an hour after sunset and half an hour before sunrise. No person shall at any time make use of, hunt with or shoot from, any floating battery, sinkboat, sunken barrels, boxes, tubs or any similar device on any of the waters of this state, nor with any boat propelled except with oars or paddles, nor from any sandbar in any of the waters of this state.

Approved February 27, 1923.

CHAPTER 199.

(H. B. 305)

RELATING TO HUNTING DOGS

AN ACT Entitled, An Act to Amend Section 10510 of the Revised Code of 1919, as Amended by Section 1, Chapter 216, Session Laws of 1919, Relating to the Use of Hunting Dogs.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 10510 of the Revised Code of 1919, as Amended by Section 1, Chapter 216, Session Laws of 1919, be and the same is hereby amended to read as follows:

Section 10510. No person shall hunt, pursue, catch, take or kill any of the animals in this chapter mentioned with any dog or dogs. The use, running or training of pointers, setters, spaniels, or other bird dogs, between the first day of April and the fifteenth day of August shall be unlawful.

Approved March 12, 1923.

CHAPTER 200.

(S. B. 150.)

REGULATING GAME BIRD HUNTING

AN ACT Entitled, An Act to Amend Section 10465 of the South Dakota Revised Code of 1919, as Amended by Chapter 214 of the Session Laws of 1919, Relating to Game Birds.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 10465 of the Revised Code of 1919, as amended by Chapter 214 of the Session Laws of 1919, be and the same is hereby amended to read as follows:

Section 10465. No person shall hunt, take, kill, ship, convey or cause to be shipped or transported by common or private carrier, to any persons, either within or without the state, expose for sale, sell to anyone, have in possession with intent to sell, or have in possession or under control, at any time, any snipe, prairie chicken, pinnated, white-breasted or sharp-tailed grouse, partridge, ruffed grouse, Chinese ringnecked or English pheasant, upland or golden plover, wild duck of any variety, wild geese of any variety, brant or any variety of aquatic fowl, or any part thereof, except that any prairie chicken, pinnated, white-breasted, sharp-tailed or ruffed grouse, partridge, upland or golden plover may be killed and had in possession from the 16th day of September to the 15th day of October, both dates inclusive; that snipe, wild duck of any variety, wild geese of any variety, brant or any variety of aquatic fowl, may be killed or had in possession from the 16th day of September to the 31st day of December, both dates inclusive. And when any of the birds mentioned in this section have been lawfully caught, taken, killed or had in possession within the time herein allowed, they may be had in possession for five days thereafter, but no person shall in any one day take or kill more than five birds, except ducks or other aquatic fowl, which shall be twenty-five, or have in his possession at any time more than fifteen prairie chickens, white-breasted, sharp-tailed or ruffed grouse, partridge, plover, or any or all of the same combined, or fifty snipe, wild duck, geese, brant or any variety of aquatic fowl or any or all of the same combined; provided that the State Game and Fish Commission shall have authority, in its discretion, to except Chinese Ringnecked or English pheasants from any or all of the provisions of this section throughout all or any portion of this state, and to provide the extent of such exception by resolution to that effect, notice of which resolution shall be published for at least one issue in each of the official newspapers of any county affected and provided further that a permit to hunt, take, kill, Chinese Ringnecked or English pheasants shall fix the same days as the opening date for all counties to which permits will be granted for that season and all the days for such permit shall be consecutive.

Approved March 8, 1923.

CHAPTER 201.

(S. B. 42)

ESTABLISHING SISSETON GAME REFUGE

AN ACT Entitled, An Act to Create and Establish the Sisseton Game Refuge, and to Regulate and Prohibit the Hunting or Killing of the Game Thereof, and to Provide for Marking the Boundaries and For Certain Penalties.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. For the better protection of birds and animals and the establishment of breeding places therefor, the following area within the State of South Dakota is hereby set aside, designated and established as a State Game Refuge: all that portion of the State of South Dakota embraced within the following described boundary, which area shall constitute and be known as the Sisseton Game Refuge:

Beginning at a point at the Northeast corner of Section Thirty-one (31), in Township One Hundred Twenty-seven (127) North, Range Fifty-five (55) West of the Fifth Principal Meridian; thence South on the section line between Sections Thirty-one (31) and Thirty-two (32) for a distance of ten (10) miles to the Southeast corner of Section Eighteen (18), in Township One Hundred Twenty-five (125) North, Range Fifty-five (55) West of the Fifth Principal Meridian; thence West of the section line between Sections Eighteen (18) and Nineteen (19), a distance of three (3) miles to the Southeast corner of Section Fifteen (15), Township One Hundred Twenty-five (125) North, Range Fifty-six (56) West of the Fifth Principal Meridian; thence north one (1) mile to the Southeast corner of Section Ten (10), Township One Hundred Twenty-five (125) North, Range Fifty-six (56) West; thence West one (1) mile to the Southwest corner of said Section Ten (10); thence North one (1) mile to the Northwest corner of said Section Ten (10); thence East one (1) mile to the Northeast corner of said Section Ten (10); thence North eight (8) miles to the Northwest corner of Section Thirty-five (35), Township One Hundred Twenty-seven (127) North, Range Fifty-six (56) West; thence East three (3) miles to the point of beginning, excepting from the lands contained within above boundaries the South half of Sections 23 and 24 and all of Sections 25 and 26 of Township 126 N. of Range 56 W. of the Fifth P. M.

Section 2. It shall be unlawful for any person or persons at any time to hunt, trap, kill, capture or pursue any birds or animals of any kind or description whatever, except as herein provided, within the limits of the Sisseton Game Refuge; provided that the penalties of this Act shall not apply to the killing, capture or destruction of any predatory animal or bird not protected by the laws of the State of South Dakota.

Section 3. It shall be the duty of the State Game Warden to post good and sufficient notices at the borders of said Sisseton Game Refuge upon all highways or trails leading into or across the same, giving notice to the public that hunting is forbidden within said refuge at all times. The expense of posting such notices or markers to be paid out of the Fish and Game Fund.

Section 4. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined in the sum of not less than Twenty-five (\$25.00) Dollars nor more

than Five Hundred (\$500.00) Dollars, or shall be imprisoned in the county jail for a period of not less than ninety (90) days or more than one (1) year, or both such fine and imprisonment in the discretion of the court.

Approved March 7, 1923.

CHAPTER 202.

(H. B. 202.)

RELATING TO THE THEODORE ROOSEVELT GAME REFUGE

AN ACT Entitled, An Act to Amend Section 1 of Chapter 248 of the Session Laws of 1921, Relating to the Creation and Establishment of the Theodore Roosevelt Game Refuge.

Be It Enacted by the Legislature of the State of South Dakota:

That Section 1 of Chapter 248 of the Session Laws of 1921 be amended to read as follows:

Section 1. For the better protection of birds and animals and the establishment of breeding places therefor, the following area within the State of South Dakota is hereby set aside, designated and established as a State Game Refuge: All that portion of the State of South Dakota embraced within the following described boundary, which area shall constitute and be known as the Theodore Roosevelt Game Refuge:

Beginning at a point at the junction of the northern boundary of the Black Hills National Forest and the Right-of-way of the Chicago, Burlington & Quincy Railway in Spearfish Canyon, thence following the Chicago, Burlington & Quincy Railway Right-of-way to the City of Ellemore, thence from the City of Ellemore, following the Cheyenne Creek to the Cheyenne Crossing. From the Cheyenne Crossing along the public highway known and designated as the Black and Yellow Trail to the City of Deadwood. From the City of Deadwood along the public highway known and designated as the Deadwood, Spearfish Highway to a point where said highway crosses the boundary of the Black Hills National Forest. Then following the northern boundary of the Black Hills National Forest west to the starting point in Spearfish Canyon.

Approved March 8, 1923.

Gasoline

CHAPTER 203.

(H. B. 236)

UNFAIR DISCRIMINATION IN SALE OF GASOLINE AND KEROSENE

AN ACT Entitled, An Act Relating to Unfair Discrimination in the Sale of Gasoline and Kerosene.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. Any person, firm, company, association, or corporation, foreign or domestic, engaged in the business of selling gasoline or kerosene within the State that shall intentionally, for the purpose of creating a monopoly, or of destroying the business of a regularly established competitor in any locality, discriminate by direct or indirect methods between different sections, communities, towns, villages, or cities of this State, by selling the above commodities at a lower rate in one section, community, town, village or city, or any portion thereof, then such person, firm, company, association or corporation shall charge for same in another section, community, town, village, or city, after making due allowance, if any, in the grade or quality, and the cost of transportation from the refinery, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared unlawful. Provided, however, that any person, firm, company, association or corporation selling such commodities in more than one section, community, town, village or city, may lower prices in any given section, community, town, village or city, to but not below the prices for which others are selling such commodities in such section, community, town, village or city, when necessary to meet actual legitimate competition in such section, community, town, village or city, without being held to have violated the provisions of this chapter.

Section 2. Proof of the selling of any such commodity by any person, firm, company, association, or corporation at a lower rate in one section, community, town, village, or city of this State than such firm, person, company, association, or corporation charges for such commodity in another section, community, town, village or city, after making due allowance for the difference, if any, in the grade or quality, and in the cost of transportation from the refinery shall constitute prima facie evidence of a violation of the preceding section.

Section 3. Any person, firm, company, association, or corporation, or any officer, agent or receiver thereof, that shall violate any of the provisions of this Act shall be guilty of a misdemeanor, and shall be fined not less than Five Hundred Dollars, nor more than Five Thousand Dollars, or be imprisoned in the county jail not exceeding one year, or be punished by both such fine and imprisonment.

Section 4. Nothing in this Act shall be construed as repealing any other law in this State, but the remedies herein provided shall be cumulative to all other remedies provided by law in and for such cases.

Approved, March 7, 1923.

Highways and Bridges

CHAPTER 204.

(H. B. 321.)

PROVIDING OR FIVE MISSOURI RIVER BRIDGES

AN ACT Entitled, An Act Providing for the Construction of Five Bridges Across the Missouri River, Designating the Locations of said Bridges, and Authorizing Counties and Municipal and Private Corporations to Advance Funds for the Construction of any One of Such Bridges, and Providing for Reimbursement of Moneys so Advanced.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. The State Highway Commission is hereby directed to construct five wagon or highway bridges, upon state trunk highways, either now designated or which shall be hereafter designated, across the Missouri River. The bridge at what is generally known as the Mobridge site shall be located between Section Thirty-six in Township One Hundred Twenty-four North of Range Eighty West, Walworth County, and Section Twenty in Township Eighteen North of Range Thirty East, Corson County; the Pierre bridge shall be located between Section Thirty-two in Township One Hundred Eleven North of Range Seventy-nine West, Hughes County, and Section Twenty-one in Township Five North of Range Thirty-one East, Stanley County; the Forest City bridge shall be located between Section Thirty in Township One Hundred Eighteen North of Range Seventy-eight West, Potter County, and Section Thirteen in Township Twelve, Range Thirty-one East, Dewey County; the Chamberlain bridge shall be located between Section Sixteen in Township One Hundred Four North of Range Seventy-one West and Section Seventeen in Township One Hundred Four North of Range Seventy-one West, Brule County; the bridge known as the Platte or Rosebud bridge, shall be located and constructed across the Missouri River between Charles Mix and Gregory Counties at some point to be selected by the State Highway Commission between Section 16, Township 95 North, Range 65 and Section 2, Township 98 North, Range 70 in Gregory County, South Dakota.

Provided, that the cost of said Platte or Rosebud bridge as finally located and constructed shall not exceed the sum of \$450,000.

Section 2. Each of said bridges shall have a twenty-two foot roadway, and the floor shall be constructed of concrete or tar wood. Steel spans shall be erected on concrete piers. The bridges herein designated as the Mobridge and Chamberlain bridges shall each have concrete channel piers capable of supporting at least one million, three hundred forty-eight thousand pounds and concrete end piers capable of supporting at least six hundred eighty thousand pounds. The bridge herein designated as the Pierre bridge shall have concrete channel piers capable of supporting at least two million, ten thousand pounds and the end piers shall be of concrete capable of supporting at least one million, two hundred thousand pounds. The bridge herein designated as the Forest City bridge shall have concrete channel piers capable of supporting at least one million, six hundred and eighty

thousand pounds and end piers of concrete capable of supporting at least eight hundred fifty thousand pounds. The bridge herein designated as the Platte or Rosebud bridge, shall have concrete channel piers capable of supporting at least two million, nine hundred thirty thousand pounds and concrete end piers capable of supporting at least one million, five hundred twenty thousand pounds.

Section 3. It shall be the duty of the State Highway Commission to apply to and secure the consent and authority of the Federal Government to construct such bridges either by act of Congress or other appropriate means.

Section 4. The State Highway Commission shall have power and authority to acquire for and on behalf of the State, by donation, purchase or condemnation proceedings, any land, right-of-way or easement it may deem necessary for the purpose of erecting and constructing said bridges and to secure means of ingress to and egress from the same.

Section 5. When the construction of any one of said bridges is to be undertaken as herein provided the State Highway Commission shall make a careful survey of the site and shall determine the most feasible location for the bridge within the limits herein provided and shall prepare complete plans and specifications therefor and shall conform to the conditions imposed by Section 2. If there are Federal Aid funds available, the Highway Commission may, in its discretion, submit such plans and specifications to the proper Federal authorities, if such submission is necessary, and if the same are approved, the Commission shall construct such bridge as a Federal Aid project.

Section 6. The State Highway Commission shall have power and authority to purchase any material required to construct aforesaid bridges or any part thereof, and to arrange to have the work of construction done by day labor under its own supervision; or it may contract with reliable contractors to construct the same or any part of a bridge or bridges, the State or the contractor to furnish such portions of the required material as it may be agreed upon. All contracts for the construction of any part thereof shall be let to the lowest responsible bidder, unless such bid shall be deemed unreasonable. All bids shall be sealed and accompanied by a certified check in such sum as the Highway Commission may require, which check shall be forfeited if the bid be accepted and the bidder shall fail to enter into a contract within the time stated in the bid as prescribed by the Highway Commission. It shall be the duty of the Highway Commission to advertise for such bids for at least thirty days in at least three newspapers of general circulation published in the State and in such other newspapers of general circulation as the Commission may deem expedient within or without the State. All contracts shall provide for payment as the work progresses, upon estimates of the State Bridge Engineer or other engineer employed by the Commission, but at all times there shall be withheld not less than twenty per cent of the contract price of the work estimated to be completed at any time when payments are made thereon and the work accepted by the State Highway Commission. Funds appropriated for the bridges herein provided for shall be expended upon warrants of the State Auditor duly issued upon vouchers approved by the State Highway Commission, and the State Treasurer is authorized to pay the same.

Section 7. All contracts for materials costing to exceed twenty-five hundred dollars shall be let upon sealed bids as provided for construction contracts in the preceding section, provided, however, the Highway

Commission is hereby authorized to reject any or all such bids and enter into private contract for a sum less than the lowest bid received.

Section 8. Whenever any contract is entered into for the construction of any part of a bridge costing to exceed one thousand dollars the contractor shall be required, before commencing such work, to give a bond in amount not less than the contract price, conditioned for the faithful performance of such contract and against any loss or damage on account of any preventable accident with good and sufficient surety to be approved by the Highway Commission and with the additional obligation that such contractor shall promptly pay all persons supplying him with labor and materials provided for in such contract.

Section 9. For the purposes of this act the term "bridge" shall be construed to include the superstructure, substructure and structural approaches thereto.

Section 10. No bridge shall be constructed until there are funds available therefor, levied and collected under the provisions of Chapter 128 of the Session Laws of 1921 and appropriated by the Legislature, together with such Federal Aid funds as may be available, or such funds as may be paid into the bridge fund pursuant to the provisions of Section 11 hereof, or which funds may become available during the period of construction. The Highway Commission shall erect the first bridge at the place herein designated for the construction of the Platte or Rosebud bridge; the second bridge shall be erected at the place designated for the construction of the Pierre bridge; the third bridge shall be erected at the place herein designated for the construction of the Chamberlain bridge; the fourth bridge shall be erected at the place herein designated for the construction of the Mobridge bridge; and the fifth bridge shall be erected at the place herein designated for the construction of the Forest City bridge. The bridges shall be constructed in the order herein provided, and the construction of each bridge shall be commenced as soon as there are funds available therefor, or which may become available during the period of construction.

Section 11. It shall be lawful for any county, counties, municipal corporation or corporations, or private corporation formed for the purpose, or any or all of them acting together, interested in advancing the construction of any bridge proposed and authorized to be constructed under the provisions of this act, to pay into the state bridge fund the estimated cost of such bridge, less the amount of State or Federal aid funds which may be available for the construction of such bridge and which in the discretion of the State Highway Commission may be applied for and used for such construction, plus five per cent of such estimated cost, which shall be expended by the State Highway Commission for the construction of such bridge for which said moneys shall be paid. Such county, counties or municipal corporation or corporations may produce such funds by the issuance of bonds or warrants under the procedure and in the manner provided by Sections 5824, 5825, 5826 and 5828 of the South Dakota Revised Code of 1919, except as such procedure is modified by the provisions of this section. The term "county" used in said sections, shall be construed for the purposes of this act to include municipal corporations; the words "commissioners" or "board of county commissioners" shall be construed to include the governing body of a municipal corporation; the words "county auditor" used therein shall be construed to include the auditor or clerk of a municipal corporation; and the term "county treasurer" used therein shall be construed, for the purposes of this act, to include the treasurer of a municipal corporation. Petitions for the issuance

of such bonds or warrants may be filed at any time, and the proceeds of such sales shall be deposited in the bridge fund in the state treasury. That such bonds shall bear interest at a rate not to exceed 6 per cent per annum and shall become due and payable not more than ten years from date of issue thereof at such time as the governing body of said county or municipal corporation shall determine.

When funds have accumulated in the state bridge fund for the construction of the bridge for which such county or municipal or private corporation funds have been deposited, according to the order of construction by this chapter provided, then the State Highway Commission shall reimburse such county, counties, municipal corporation or corporations, or private corporations, for the funds so advanced for the construction and erection of the bridge, without payment of interest. If, upon the completion of the bridge, there is a surplus of funds so advanced for its construction, the State Auditor shall issue warrants to such corporate organizations, upon vouchers approved by the State Highway Commission, in proportion to the amounts advanced by each and the State Treasurer is authorized to pay the same.

Section 12. That it shall be lawful for any county, counties, municipal corporation or corporations, or private corporations formed for that purpose or any or all of them acting together, interested in advancing the construction of any bridge proposed and authorized to be constructed under the provisions of this act by and through its governing body to appropriate and pay from its highway or general funds such amount of money as its governing body may see fit, to pay the interest or part of interest on money borrowed or advanced by any other county, municipal corporation or private corporation for the purpose of advancing the cost of construction of such bridge.

Section 13. Whereas, this act is necessary for the immediate preservation of the public peace and safety and for the support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 205.

(S. B. 151.)

PROHIBITING OVERFLOW OF HIGHWAYS

AN ACT Entitled, An Act Prohibiting the Obstruction of or Damage to a Public Highway, or Interference with the Construction, Repair or Maintenance of a Road Along such Highway, by Water from a Flowing or Artesian Well and Providing a Remedy.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. No person being the proprietor of or having the control of a flowing or artesian well shall permit the water from such well to run upon, across or along any public highway so as to damage the same or obstruct travel thereon, or interfere with the construction, repair or maintenance of a road along such public highway.

Section 2. After ten days written notice to any person or persons violating the provisions of Section 1 hereof, the governing body, board or officer having charge of such public highway or of the construction, maintenance or repair of a road along such highway, may ditch, tile or otherwise care for or remove the water causing such obstruction, damage or interference, and the city, town, township, county or state, as the case may be, shall be entitled to recover from such person or persons the amount necessarily expended and such action may be commenced in any court in the county having jurisdiction thereof.

Approved March 8, 1923.

CHAPTER 206.

(H. B. 17)

RELATING TO HIGHWAY SIGNS

AN ACT Entitled, An Act to Amend Chapter 252 of the Session Laws of 1921 Relating to Highway Signs.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Chapter 252 of the Session Laws of 1921 is hereby amended to read as follows:

Section 1. It shall be unlawful for any person to deface, obliterate, remove, destroy or in any manner molest or interfere with any notice, road sign, mileage post, or directing device placed, erected, or set up upon or along any highway under authority of the State or United States, or any county, city, town, or village. Any person found guilty of violating the foregoing provisions shall be deemed guilty of a misdemeanor.

Provided, that this Act shall in no wise affect the provisions of Section 53, Chapter 333, Session Laws of 1919.

Approved February 2, 1923.

Horticulture

CHAPTER 207.

(H. B. 284)

RELATING TO MEETINGS OF STATE HORTICULTURAL SOCIETY

AN ACT Entitled, An Act to Amend Section 8013 of the Revised Code of 1919 Relating to Meetings of the Horticultural Society.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 8013 of the Revised Code of 1919 is hereby amended to read as follows:

Section 8013. **Meetings.** Such society shall meet at such time and place as may be designated by the members or by the executive committee. The officers of the society shall be elected for one year, and consist of a President, Vice-President, Secretary, Treasurer and Librarian.

Approved March 6, 1923.

Insane

CHAPTER 208.

(S. B. 31)

RELATING TO CARE OF INSANE

AN ACT Entitled, An Act Amending Sections 10066, 10067, 10068, 10070, 10071, 10073, 10087 and 5477 of the South Dakota Revised Code of 1919, and Section 10072 of the South Dakota Revised Code of 1919, as Amended by Chapter 228 of the Laws of 1919, Relating to the Insane, and Providing Penalty for Same.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 10066 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 10066. **Board of Insanity.** In each county in the state there shall be a Board of Commissioners consisting of the County Judge, State's Attorney and a reputable practicing physician appointed by the Board of County Commissioners, to be styled as a Board of Insanity, two of whom shall constitute a quorum. The County Judge shall be the Chairman of such Board and the State's Attorney its Clerk. In the absence of the Chairman, or his inability to act, the State's Attorney shall be ex-officio chairman of such Board, vested with all the powers and

prerogatives of the chairman during such absence or inability of the Chairman to act. In case of the temporary absence or inability of either of such members to act, the chairman or acting chairman shall call to his aid a reputable practicing physician or licensed attorney and counselor at law or both, who after qualifying as in other cases, may act in the same capacity. The record in such cases must show the fact of such absence.

Section 2. That Section 10067 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 10067. Oath. Before entering upon the duties of his office, each of the persons constituting such Board shall take and subscribe an oath or affirmation to support the Constitution of the United States and of this State, and to faithfully discharge his official duties according to law, which oath shall be filed in the office of the County Auditor and be entered in a record to be known as the "Insane Record" in said office.

The Board shall hold its meetings for business at the office of the chairman unless for good reason it shall select some other place; if it deems it necessary or advisable, it may hold sessions at such times as it may fix. It shall also meet on notice of the chairman of the Board.

Section 3. That Section 10068 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 10068. Chairman—Duty. The Chairman or acting chairman of such Board shall sign and issue all notices, appointments, warrants, subpoenas or other process required to be given or issued by the Board. He shall file in the office of the Clerk of Courts all papers connected with any inquest of the Board, and properly belonging to his office with all notices, reports and other communications. It shall be the duty of the Clerk of Courts to keep separate books in which to record the proceedings of the Board and his entries shall be sufficiently full to show with the papers filed, a complete record of the findings, orders and transactions of the Board. The notices, reports and communications herein required to be given or made may be sent by mail unless otherwise expressed or implied, and the fact and date of such sending or reception must be noted on the proper record.

Section 4. That Section 10070 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 10070. Application Application for admission to the Hospital for the Insane must be made to the chairman or acting chairman of the Board and must be made in writing in the nature of an information verified by affidavits. Such information must allege that the person on whose behalf the application is made is believed by the informant to be insane and a fit subject for custody and treatment in the hospital for the insane, and shall contain a statement of facts upon which such belief is based; that such person is in the county and has a legal settlement therein, if such is known to be the fact, and if such settlement is not in the county where it is, if known, or where it is believed to be, if the informant is advised on the subject. If satisfied that there is reasonable cause for believing such person to be insane, the chairman or acting chairman of the Board may issue a warrant and cause such person to be taken into custody unless he deems it advisable to await the action of the full Board as set out in Section 10071.

Section 5. That Section 10071 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 10071. Investigation by Boards. On the filing of an information as provided in the preceding section, the Board shall at once take steps to investigate the grounds upon which the information is based. For such purpose it may require that the person for which such admission is sought be brought before it and examination be had in his or her presence, and it may issue warrant therefor, and provide for the suitable custody of such person until the investigation shall be concluded. Such warrant may be executed by the Sheriff or any constable in the county or by any person especially appointed by such Board, or if the Board shall be of the opinion from such preliminary inquiries as it may make and in making which it shall take the testimony of the informant it deems necessary or desirable and of other witnesses, if offered, that such course would probably be injurious to such person or attended with no advantage, it may dispense with such presence. In its examination, it shall hear the testimony for and against such application, if any is offered, and cause a record of the testimony to be made in duplicate, and filed in the office of the Clerk of Courts. The person charged with being insane or any citizens of the county or any relative of the person alleged to be insane may appear and resist the application, and any person authorized to appear may appear by counsel. The Board, whether it decides to dispense with the presence of such person or not, shall require the member of the Board who is the practicing physician thereof, to visit or see such person and make a personal examination, touching the truth of the allegations in the information and touching the actual condition of such person and forthwith report to it thereon, and the member of the Board so acting shall certify in his own hand that he has in pursuance of his duty made a careful examination as required and upon such examination he finds the person in question to be insane, if such be the fact and if otherwise, not insane; and in connection with said examination such physician shall endeavor to obtain from the relatives of the person in question or from others who know the facts, correct answers so far as may be, to the interrogatories required to be propounded in such cases, which interrogatories and answers shall be attached to his certificate, and such interrogatories, answers and certificates shall be made in duplicate, one copy to be filed in the office of the Clerk of Courts and one to be transmitted to the Superintendent of the Hospital for the Insane as herein provided.

Provided, however, that before final findings are agreed to upon request of the person reported to be insane or any other person interested in such case, or upon the Board's own motion it may appoint a regularly practicing physician of the county to act with the Board in any case in which there may arise any doubt in the minds of the Board or the persons interested in such case as to the sanity of the person charged with being insane.

Section 6. That Section 10072 of the South Dakota Revised Code of 1919 as amended by Section 2 of Chapter 228 of the Laws of 1919 is hereby amended to read as follows:

Section 10072. Findings. On the return of the certificate of the member of the Board being a physician, the Board shall as soon as practicable, conclude its investigation and having done so, it shall decide whether the person alleged to be insane in insane or not; whether if insane, is a fit subject for treatment and custody in the hospital for the insane; whether the legal settlement of such person is in its county, and if not, where it is, if ascertained; the name and age of such reported insane person, whether married or single, and if married, the name and place of residence of the husband or wife; if single, whether widowed or divorced;

whether any children, if so, the names, ages and place of residence of such; whether father or mother and place of residence, if living, and last place of residence, if dead; whether such insane person has an estate, or the prospective inheritance of an estate, with any further information the Board may obtain relating thereto; the name and place of the residence of any other person or persons who are legally bound to support such insane person, which findings shall be made in quadruple; one copy of which to be filed with the papers relating to such case in the office of the Clerk of Courts; one copy to be filed in the office of the Clerk of Courts; one copy to be filed in the office of the County Auditor of the county in which the legal settlement of such insane person is found to be; one copy to be sent to the State Auditor, and one copy to be sent with the duplicate warrants and duplicate certificate and interrogatories of the examining physician or physicians, and a copy of the testimony herein authorized to the Superintendent of the Hospital for the Insane. If it finds such person is not insane, it shall order his or her discharge, if in custody; if it finds such person insane and a fit subject for treatment and custody in the Hospital for the Insane, it shall forthwith issue its warrant in duplicate, stating such findings with the settlement of such person, if found, and if not found, its information, if any, in regard thereto authorizing the Superintendent of the Hospital for the Insane to receive and keep such person as a patient therein.

If the legal settlement of such person is found to be without the county, the Board shall forward to the State Auditor and also to the County Auditor of the county in which such legal settlement may be found, if known to the Board, in addition to a copy of its findings as to such legal settlement, a summary of the proofs upon which such findings are based. Provided, that before making a final judgment and a permanent record in any case in which the Board is in doubt whether such person is insane, and in case where it appears that such person is only temporarily insane. The Board may commit such person to the State Hospital for the Insane for examination, observation and treatment by the Superintendent of the Hospital for the Insane, and may adjourn the hearing for a reasonable time, and from time to time until opportunity has been given such Superintendent to pass an opinion as to the mental condition of such person. Upon receipt of such opinion from such Superintendent or prior thereto, the Board may take final action.

Section 7. That Section 10073 of the South Dakota Revised Code be amended to read as follows:

Section 10073. Patients Sent to Hospital. Whenever a person shall by such Board be adjudged insane or committed for examination and observation, it shall be the duty of the chairman of such Board of the county in which such person is so adjudged, to notify the Superintendent of the Hospital for the Insane by forthwith forwarding to him a duplicate copy of the report of the examining physician and a duplicate warrant committing the patient, together with a copy of the record of the testimony and the findings of the Board, and in case the Superintendent of the Hospital for the Insane shall determine that such person so adjudged insane is a proper subject for care and treatment in such hospital, such superintendent shall forthwith send a suitable person from among the employes of the hospital who has had experience in the case of insane persons, to the county seat of the county in which such person is adjudged insane is held, which employee shall act as attendant for and shall take charge of such insane person while enroute to the hospital for the insane. If it should be determined by such attendant and the Chairman of the County Board of Insanity, that help is necessary in conveying

such insane person to the Hospital for the Insane, such Chairman shall appoint a suitable person to assist such attendant in so conveying such insane person to the Hospital for the Insane. The expenses of such assistant attendant shall be paid by the state, and such assistant attendant shall receive as compensation for such services three dollars (\$3.00) per day for each day spent in the performance of the duty imposed upon him. The employee so sent or detailed by the Superintendent of the Hospital for the Insane shall receive no additional compensation for his services, but the expense of the trip shall be charged as incidental expense of the Hospital for the Insane, and a record of the expense in each case shall be preserved and reported as in case of other special expenses.

Section 8. That Section 10087 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 10087. Salaries and Fees. The members of the Board of Insanity, except County Judge and State's Attorney, shall be allowed at the rate of four dollars (\$4.00) per day for all time actually employed in the duties of their office as members of such Board of Insanity. The physician as member of the Board in addition to what he is entitled to as a member of such Board, shall be allowed two dollars (\$2.00) for each case examined. All members of such Board shall be allowed mileage at the rate of ten cents (10c) per mile each way and other necessary actual expenses incurred in the performance of their duties as members of such Board. The Sheriff shall be allowed the same fee as for like services in other cases. The witnesses shall be allowed the same fees as the witnesses in the circuit court.

The compensation and expenses provided by this section shall be allowed and paid out of the "Insane Fund" in the County Treasury in the usual manner, if there is a sufficient amount in such fund to pay the same, and if not, it may be paid out of the General Fund. When the person examined shall be found to be insane or is committed to the Hospital for examination, observation and treatment, such expense when paid by the County shall be charged by the County Auditor to such person and to those legally bound to support such insane person and may be collected in the same manner as charges for the support of such insane person in the Hospital for the Insane; provided the Statute of Limitations shall not commence to run until the death of the insane patient, but action may be begun at any time during the life time of the insane person.

Section 9. That Section 5477 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 5477. Superintendent to Furnish County Auditor with Report It shall be the duty of the Superintendent of the Hospital for the Insane to furnish the County Auditor of each county having patients in the hospital, a quarterly report giving the number of patients, the name and cost of maintenance of same. It shall be the duty of such County Auditor to cause such report to be published in the official newspapers of the county with the proceedings of the County Board; provided, that no names of patients given in the report be published, which report shall also show the amount of taxes collected in the county for the maintenance of the Hospital for the Insane. It shall also be the duty of the Superintendent of the Hospital for the Insane to furnish at once to the Chairman of the County Board of Insanity and the County Auditor of the County wherein the legal settlement is found to be, the name of each patient discharged, whether recovered, paroled or on visit, and also in case of escape or death.

Section 10. Uniform System of Accounts. It shall be the duty of the State Executive Accountant in consultation with the State Auditor and

Attorney General to at once prepare a uniform system of keeping accounts between the county and its insane patients, and between the county and the state to the end that there may be a uniform system of keeping such accounts in all counties of the state. It shall be the duty of the Committee named above to have prepared and published under the provisions of law governing public printing and supplies, an account book for each county, in stock form, incorporating such uniform system of accounts. The expense of such publication shall, in the first instance, be paid by the State, but when published the book shall be forwarded by the State Auditor to the County Auditor of the respective counties of the state and the expense of publishing such book shall be charged and paid by the respective counties.

Section 11. Duties of the County Auditor in Keeping the Accounts of the Insane. It shall be the duty of the County Auditor immediately after receipt of the account book mentioned in the preceding section to call to his assistance the Chairman of the County Board of Insanity, the State's Attorney, member thereof, and the Clerk of Courts, in accordance with such directions as may be prescribed by the State Executive Accountant, make up and enter in said account book a statement as to each patient from the county then in the State Hospital for the Insane, giving as far as possible the information required under this act and other provisions of law including a statement of the account of such patient or anyone liable to the county for his or her support. The Auditor shall keep a duplicate of such statement and information in regard to each insane patient to be transmitted to the Superintendent of the Hospital for the Insane. The County Auditor shall upon receipt of a statement from such Superintendent of the Hospital for the Insane, require payment for the care of patients therein, enter the proper charge against the respective patients and shall notify those legally bound for the support of such patients, requiring them to pay the same, which payment shall be made to the County Treasurer of the County in which such charge has been made and when such payment is made, a receipt shall be issued therefor in triplicate and one copy of such receipt shall be filed with the County Auditor, who shall give proper credit for the same. The Auditor shall also note upon his record information in regard to each patient, which may be transmitted to him from time to time by the Superintendent of the Hospital for the Insane, or by the Board of Insanity, or by the Chairman of such Board or which he may obtain from any other source or sources.

Section 12. Duty of the Chairman of the County Board of Insanity. It shall be the duty of the Chairman of the County Board of Insanity to notify the County Auditor of any facts which may come to his knowledge relating to any patient of the county who is an inmate of the Hospital for the Insane, which will enable the County Auditor to make a more complete record in regard to such patient or patients.

Any person who violates the provisions of this act or who attempts to place any person in a hospital for the insane by any method other than as prescribed by this act shall be guilty of a felony and upon conviction shall be punished accordingly.

Approved March 12th., 1923.

Insurance

CHAPTER 209.

(H. B. 7)

RELATING TO STATE HAIL INSURANCE

AN ACT Entitled, An Act to Amend Section 7 of Chapter 244 of the Session Laws of 1919, as Amended by Chapter 265 of the Session Laws of 1921, Relating to State Hail Insurance, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 7 of Chapter 244 of the Session Laws of 1919, as amended by Chapter 265 of the Session Laws of 1921, be amended to read as follows:

"Section 7. All land planted to crops as defined in this Act in this State shall be and is hereby deemed to be insured against loss by hail each year on and after twelve o'clock noon of the first day of June to twelve o'clock noon the fifteenth day of September, 1919, and annually thereafter on and between said dates to the amount of, but not exceeding, Ten Dollars per acre for each acre in crop, except as hereinafter provided; provided, however, such insurance shall automatically cease when said grain is cut or harvested or destroyed by means other than hail."

Section 2. All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

Section 3. Whereas, this Act is necessary for the support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved February 26, 1923.

CHAPTER 210.

(H. B. 138)

RELATING TO WORKMEN'S COMPENSATION INSURANCE

AN ACT Entitled, An Act Relating to Workmen's Compensation Insurance and Authorizing Companies Writing Such Insurance to Cover Employers as Well as Employees.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Any insurance company authorized or which may be authorized to write workmen's compensation insurance in this state, shall be and is hereby authorized to issue policies covering employers including the executive officers of corporations who perform labor incidental to their occupations as well as employees, such policies insuring

to such employers or officers the same compensation as provided for their employees and at the same rates. The estimation of wage values of employers and the officers of corporations, as herein mentioned, shall be reasonably and separately stated in and added to the valuation of their pay-rolls on which their premiums are computed. Employers or corporation officers so insured shall have the same rights and remedies as are given to an employee under the South Dakota Workmen's Compensation Law.

Section 2. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

Approved February 27, 1923.

Interest

CHAPTER 211.

(S. B. 43)

RELATING TO USURY AND THE MAXIMUM RATE OF INTEREST

AN ACT Entitled, An Act to Amend Sections 1040 and 1044 of the South Dakota Revised Code of 1919, Relating to Usury and Providing Forfeiture of Interest on Contracts When in Excess of Ten Per Cent.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 1040 of the South Dakota Revised Code of 1919 is hereby amended to read as follows:

Section 1040. Usury Defined. The highest rate of interest which it shall be lawful for any person to take, receive, retain or contract for in this state, shall be ten per cent (10%) per annum, and at the same rate for a shorter time.

Unless within the above limitation, there is an express contract in writing fixing a different rate, interest is payable on all moneys at the rate of seven per cent per annum, after they become due on any instrument of writing, including a judgment, and on moneys lent, or due on any settlement of accounts, from the day on which the balance is ascertained, and on moneys received to the use of another and detained from him.

Section 2. That Section 1044 of the South Dakota Revised Code of 1919 is hereby amended to read as follows:

Section 1044. Usury Forfeits Interest. Any person or corporation contracting to receive a greater rate of interest or discount than ten per cent upon any contract verbal or written, shall forfeit the whole of said interest so contracted to be received, and shall be entitled only to receive the principal sum due; and if any part of such interest shall have been paid it may be recovered in an action for that purpose, or set off in an action to recover such principal.

Approved February 15, 1923.

Internal Revenue

CHAPTER 212.

(S. B. 170.)

RELATING TO NOTICE OF LIEN, FEDERAL INTERNAL REVENUE LAWS

AN ACT Entitled, An Act Authorizing the Filing in the Offices of the Registers of Deeds in This State, of All Notices of Liens in Favor of the United States for Revenue Taxes, and Limiting the Time of Filing Thereof in Certain Cases.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Notice of any lien or liens held or claimed by, or in favor of the United States, under or for any tax or taxes assessed, levied, and collectible, as provided by the Internal Revenue Laws of the United States, is hereby authorized to be filed by the United States Collector in the offices of the Registers of Deeds of the counties of this state within which is situated the property of any person, partnership, firm, association or corporation liable to pay such tax or taxes.

Section 2. Any lien in favor of or claimed by the United States under the Internal Revenue Laws of the United States, of which notice has been heretofore filed, or is hereafter filed prior to July 1st, A. D. 1923, by the United States Collector, only in the office of the Clerk of the United States District Court of the District of South Dakota, shall not be valid in this state against any mortgagee, purchaser or judgment creditor, unless such notice, or a copy or transcript thereof duly certified by the Clerk of the said District Court, shall be filed on or before January 1st, A. D. 1924, in the office of the Register of Deeds of the county or counties within which the property subject to the lien is situated.

Section 3. Every Register of Deeds in whose office such notice of lien, or certified copy or transcript thereof, is hereafter filed, shall keep and maintain as a record in his office a separate alphabetical index of all such notices and liens, and shall index each notice under the name of the person, partnership, firm, association or corporation against whom the lien is claimed; and no fee for filing or indexing same shall be charged therefore.

Approved March 8, 1923.

Intoxicating Liquors

CHAPTER 213.

(S. B. 189)

RELATING TO INTOXICATION IN PUBLIC PLACES

An Act Entitled, An Act Amending Section 10302 of the South Dakota Revised Code of 1919, Relating to Intoxicated Persons in Public Places.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 10302 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 10302. Every person found intoxicated in any public place otherwise than as provided in the preceding section shall be punished, upon conviction, by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Approved March 12, 1923.

CHAPTER 214.

(S. B. 194)

RELATING TO SEARCH WARRANTS

An Act Entitled, An Act to Amend Sections 10329, 10330 and 10332, and to Repeal Sections 10331 and 10336 of the South Dakota Revised Code of 1919, Relating to Search Warrants for Intoxicating Liquors, and Vessels, Implements and Furniture Used in Connection with the Illegal Manufacture, Use and Traffic in Intoxicating Liquors.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 10329 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 10329. If any person makes a sworn complaint or affidavit, before any Justice of the Peace, Judge of the Circuit Court, County Judge or any Municipal Judge or Justice, or before any court that he knows or has good reason to believe and does believe, setting forth the grounds of such belief, that intoxicating liquors are manufactured, kept, sold, furnished, given away or used as a beverage in violation of any law of this state at any place in this state and describing the place to be searched, and the article or articles to be searched for or seized, and asking for a search warrant to search the place so described for the articles complained of, such Justice of the Peace, Judge or Court shall if he finds probable cause therefor, issue a search warrant directed to any officer whom the complainant may designate or other qualified

officer having power to serve criminal process, commanding him to search the premises designated in such complaint or affidavit and warrant, and if any such liquor is there found, to seize the same, together with the vessels in which it is contained, and all the glasses, bottles, implements, furniture and fixtures used or kept in such place for the manufacture, keeping, selling, furnishing, giving away or using such intoxicating liquors so seized and make immediate return on such search warrant to the Justice, Judge or Court issuing such warrant. Such liquor, vessels, glasses, bottles, implements, furniture and fixtures, shall be safely kept and held by such officer making the seizure, subject to the order of the Court to be used as evidence in the prosecution of any case for the violation of any law or ordinance relating to intoxicating liquors.

Section 2. That Section 10330 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 10330. When any intoxicating liquors, vessels in which it is contained, glasses, bottles, implements, furniture and fixtures are seized as provided in Section 10329 of this article, the officer serving the warrant and making such seizures shall forthwith file a complaint charging the violation of the law which the evidence in the case justifies. If such officer refuses or neglects to file such complaint, the person filing the application for search warrant or any other person may file such complaint or information, but nothing contained in this article shall prevent any person or officer from filing such complaint before the search warrant is issued or served, and a warrant for the arrest of the person or persons so offending, shall thereupon be issued and the same proceedings shall then be had as provided by law, and all intoxicating liquors, vessels, glasses, bottles, implements, furniture and fixtures seized may be used as evidence at the trial or hearing based upon such complaint and upon any information filed therein, and the possession of such intoxicating liquors, vessels, glasses, bottles, implements and fixtures shall be prima facie evidence of guilt.

Section 3. That Section 10332 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 10332. If the Justice of the Peace, Judge or Court before whom the application for search warrant is made, be satisfied from such application that there is probable cause to believe that grounds for the issuance of a search warrant exists, he must issue a search warrant, signed by him, with the name of his office, directed to a peace officer of his county or of the state, which warrant shall be substantially in the following form, to-wit:

County of _____, State of South Dakota.

To _____, GREETING:

Complaint under oath having this day been presented before the undersigned _____ (giving the name of the Justice, Judge or Court and the name of his office). By _____ (naming the person or persons filing the complaint), charging _____

_____ (Here describe the charge set out in the complaint) and praying for the issuance of a search warrant to search _____

(here describe particularly the place to be searched for the following articles _____ (here describe the

things to be searched for) and it appearing to the undersigned that there is probable cause to believe that grounds for the issuance of such search warrant exists and for the issuance of such search warrant.

YOU ARE THEREFORE COMMANDED forthwith to search
..... (Here describe particularly the place to be searched) for the following articles, to-wit:
..... (Here describe the things to be searched for) and if you find the same or any part thereof, to seize and bring the same forthwith before me to be held and dealt with according to law.

Given under my hand this day of, 19.....

.....
(Designating the Office)

Section 4. That Sections 10331 and 10336 of the South Dakota Revised Code of 1919 be and the same are hereby repealed.

Approved March 12, 1923.

Irrigation

CHAPTER 215.

(H. B. 2.)

RELATING TO IRRIGATION DISTRICTS.

AN ACT Entitled, An Act to Amend Sections 8384, 8385, 8386, 8392 and 8395 of Chapter Four of the South Dakota Revised Code of 1919, Relating to Irrigation Districts, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 8384 be amended to read as follows:

Section 8384. **District—How Formed.** A petition shall be filed with the Board of County Commissioners of the County having the greatest acreage within the proposed irrigation district, signed by a majority of the electors of the proposed district, who shall be entrymen upon or shall own a majority of the whole number of acres owned or held by the proposed district, which petition shall set forth and particularly describe the boundaries of the district and shall pray that the same be organized under the provisions of this chapter. The petitioners must accompany the petition with a map of the proposed district, which shall show the location of the proposed canal or the works by means of which it is intended to irrigate the lands of the proposed district, and all canals situated within the boundaries of the proposed district except such canals as merely pass through the lands and do not in fact irrigate any of the same. If the water supply be from a natural stream or streams, the flow of such stream or streams shall be stated in cubic feet per second. If the water supply for the district is to be gathered by a storage reservoir, the map shall show the location of the proposed reservoir and shall give its capacity in acre feet. The map shall be drawn to a scale of two inches to the mile. Cross sections of the proposed canal, and all canals existing within the boundaries of the proposed district and shown on the map, and all proposed dams and embankments, shall be given in sufficient

detail to show the contemplated method of construction, and the capacity shall be given in cubic feet per second of such proposed and such existing canals. Such cross sections shall be drawn to a scale of ten feet to the inch, and such map and cross sections shall be certified by a competent irrigation engineer. The petition must be accompanied with a good and sufficient bond, to be approved by the board of county commissioners, in double the amount of the probable cost of organizing such a district, conditioned that the sureties will pay all costs in case such organization shall not be effected. Such petition shall be published for a least two weeks prior to the date when the same is to be presented, in some newspaper printed and published in the county where the petition is presented, together with a notice stating the date of the meeting at which the same will be presented. A copy of such petition and all maps and other papers filed with the same shall be filed in the office of the state engineer for at least four weeks before the date set for such hearing.

It shall be the duty of the state engineer to examine such petition, maps and other papers and, if he deems it necessary, to further examine the proposed district, the works proposed to be purchased and the location of the works to be constructed, and he shall prepare a report upon the matter in such form as he deems advisable and submit the same to the board of county commissioners at the meeting set for the hearing of such petition; and if the state engineer has been unable to complete his investigation of the feasibility and the practicability of such proposed district by the date of such meeting, he shall so notify the board of county commissioners and it shall postpone consideration of such petition, not exceeding thirty days, to enable the state engineer to report. At the time set for such hearing the board may so amend such plan of irrigation as it may deem advisable; it may adjourn such hearing from time to time, not exceeding four weeks in all, and on the final hearing may make such changes in the proposed boundaries as it may deem proper, and shall establish and define the boundaries so as to exempt from the operation of this chapter any territory within the boundaries of the district proposed by the petitioners, which is not susceptible of irrigation by the same system of works, or a portion thereof applicable to the other lands in such proposed district; nor shall any land which will not, in the judgment of such board, be benefited by irrigation by such system of works or a portion thereof, be included in such district; provided, any person whose lands are susceptible of irrigation from the same source shall, upon application of the owner or entryman to such board, be entitled to have such lands included in such district. Such board shall also make an order dividing the district into three, five or seven divisions, as it may deem proper, which shall be as nearly equal in size as may be practicable and which shall be numbered consecutively.

Such board shall then give notice of an election to be held in such proposed district, for the purpose of determining whether or not the same shall be organized under the provisions of this chapter. Such notice shall describe the boundaries as established and shall designate a name for such proposed district, and shall be published for at least three weeks prior to such election in a newspaper in the county; and if any portion of such proposed district lies within another county or counties, such notice shall be published in a newspaper published within each of such counties. Such notice shall require the electors to cast ballots which contain the words "Irrigation District—Yes", and "Irrigation District—No," or words equivalent thereto. No person shall be entitled to vote at any election held under the provisions of this chapter unless he shall be a qualified elector as herein provided. For the purpose of such election, such

board must establish a convenient number of election precincts in the proposed district and define the boundaries thereof, which precincts may thereafter be changed by the board of directors of such district.

Section 2. That Section 8385 be amended to read as follows:

Section 8385. Election—Notice—Conduct. Such election shall be conducted in accordance with the general election laws of the state. The board of county commissioners shall meet on the second Monday next succeeding such election and proceed to canvass the vote cast thereat; and if upon such canvass it appears that a majority of all the votes cast are "Irrigation District—Yes", the board shall, by an order entered on its minutes, declare such territory duly organized as an irrigation district, under the name and style designated. Such board shall cause a copy of such order, duly certified to be immediately filed for record in the office of the register of deeds of each county in which any portion of such lands is situated, and must also immediately forward a copy thereof to the county auditor of each of the counties in which any portion of the district may lie; and no board of county commissioners of any county including any portion of such district shall, after the date of the organization of such district, permit another district to be formed including any of the lands of such district, without the consent of the board of directors thereof. Such board of county commissioners shall also give thirty days notice, by publication in each of the newspapers published within the district and by posting such notices in five public places within each division, of an election to be held in such district for the purpose of electing officers of the district, naming the offices to be filled, the day and date of election, the several polling places and the election judges. Such election and the canvassing of the returns shall be conducted in accordance with the general election laws of the state for the election of county officers. There shall be elected at such election one director for each division, who shall be a resident of such division, and also a district assessor, district secretary and district treasurer. The officers elected in compliance with this section shall be entitled to enter immediately upon the duties of their respective offices upon qualifying as hereinafter provided, and shall hold their respective offices until the next general election for the irrigation district, when their successors shall be elected. Provided, however, if the majority of the lands within the district are unentered public lands, a majority of the Board of Directors shall be appointed by the Secretary of the Interior, who shall be residents of the state and subject to removal from office and any vacancy filled by said Secretary of the Interior which directors shall hold office until such time that the unentered public lands within the district constitute a minority of the total area, after which a general election shall be called by said Board of Directors, when their successors shall be elected.

Section 3. That Section 8386 be amended to read as follows:

Section 8386. Officers—Term—Bond. At the first general election, where the district is divided into three divisions, the member of the board of directors from division one shall be elected for the term of three years; the member from division two shall be elected for two years; the member from division three shall be elected for one year; and where the district is divided into five or seven divisions, the members of the Board from division one and two shall be elected for three years; the members from divisions three and four shall be elected for two years and the remaining members of the Board shall be elected for one year. The district assessor and district treasurer shall be elected for a term of three years. In case of a tie, the election shall be determined by lot. Each

year thereafter there shall be elected for a term of three years one or more members of such board of directors, as the case may be, and every three years thereafter an assessor and treasurer, each of whose term of office shall be three years. The member of the board of directors from each division shall be nominated and elected by a majority vote of the electors of the division in the irrigation district for which he is to serve as such director. The regular election of such district shall be held on the first Tuesday in January. Provided, however, if a majority of said Board of Directors are appointed by the Secretary of the Interior as provided for in this chapter, then the remaining directors shall be elected at large within the entire Irrigation District for terms of three years each, which terms, however, shall be limited to and expire at the same time as the terms of members appointed by the Secretary of the Interior, after which the directors shall be elected in the same manner and for the same terms as provided herein in the case of the first general election of directors. Within ten days after receiving their certificates of election such officers shall take and subscribe the official oath. The assessor shall execute an official bond in the sum of five hundred dollars; the district treasurer an official bond in the sum of not less than one thousand dollars and not less than double the amount of money that may come into his hands, the amount to be determined by the board of directors, such bond to be approved by the board of directors; and each members of such board of directors shall execute an official bond in the sum of one thousand dollars, which bond shall be approved by the Judge of the Circuit Court of the county where such organization was effected; and after such approval all bonds shall be recorded in the office of the register of deeds of such county; provided, that in case any district organized hereunder is appointed fiscal agent of the United States or by the United States is authorized to make collections of money for and on behalf of the United States in connection with any federal reclamation project, such treasurer and each director shall execute an additional official bond in such sum as the Secretary of the Interior may require, conditioned for the faithful discharge of the duties of his office and the faithful discharge by the district of its duties as fiscal or other agent of the United States under any such appointment or authorization; such additional bonds to be approved, recorded and filed as herein provided for other official bonds, and any such additional bonds may be sued upon by the United States or any person injured by the failure of such officer or the district to fully, promptly and completely perform their respective duties. All official bonds herein provided for shall be in the form prescribed by law for official bonds of county officers, except the obligee named in such bond shall be the district. The officers elected shall assume the duties of their offices the first Monday in February, after their election; provided, all incumbents shall hold their respective offices until their successors are elected and qualified; provided, further that after the election for organizing the district and for the first officers, all other elections may be conducted under such system of voting by mail as may be provided in the by-laws of the district.

Section 4. That Section 8392 be amended to read as follows:

Section 8392. **Same—Meetings, Quorum, Record.** The board of directors shall hold regular meetings in its office on the first Tuesday of each month and continue in session from ten o'clock a. m. to four o'clock p. m., and such special meetings as may be required for the proper transaction of business; provided, all special meetings shall be ordered by the president of the board, the order to be entered of record, and five days notice thereof given to each member. The order must specify the busi-

ness to be transacted, and no other than that specified shall be transacted at such special meeting. All meetings of the board must be public and a majority of the members shall constitute a quorum for the transaction of business, and upon all questions requiring a vote there shall be a concurrence of at least a majority of such board. All records of the board must be open to the inspection of any elector during business hours, and such board shall cause to be published at the close of each regular or special meeting a brief statement of the proceedings thereof in one newspaper of general circulation in the district, if it can be done at an expense not exceeding one-third of the legal rate for advertising legal notices. The board, its agents and employees, shall have the right to enter upon any land within the district to make surveys, and may locate the line of any canal or canals and the necessary branches for such location. The board shall also have the right to acquire, either by purchase or condemnation, all lands and waters and other property necessary for the construction, use, maintenance, repair and improvement of any canal, canals, power plants of any kind or nature, and lands for reservoirs for storage of water and all necessary appurtenances. The board shall also have the right to acquire by purchase or condemnation, for the use of such district, any irrigation works, power plant, ditches, canals or reservoirs already constructed. In case of purchase, the bonds of the district hereinafter provided for may be used at their par value in payment. The board may also construct the necessary dams, reservoirs and works for the collection of water for the district and do any and every lawful act necessary to be done that sufficient water may be furnished to each tract of land in the district for irrigation purposes, and may enter into any obligation or contract with the United States for the construction, operation and maintenance of the necessary works for the delivery and distribution of water therefrom under the provisions of the federal reclamation act and all acts amendatory thereof, or supplementary thereto, and the rules and regulations established thereunder; or the board may contract with the United States for a water supply under any act of congress providing for or permitting such contract, and in case any contract has been or may hereafter be made with the United States as herein provided, bonds of the district may be deposited with the United States at ninety per cent of their par value, to secure the amount to be paid by the district to the United States under any such contract, and may be held by it, and when deemed desirable, or when the appraised value of the land is double the bonded indebtedness, sold by it, and the net proceeds received from the sale of the bonds applied to the liquidation of the contract indebtedness of the District to the United States, the interest and principal on such bonds to be provided for by assessment and levy as in the case of other bonds of the district and regularly paid to the United States, to be applied as provided in such contract, and if bonds of the district are not so deposited it shall be the duty of the board of directors to include as part of any levy or assessment provided for in section 8401, an amount sufficient to meet each year all payments accruing under the terms of any such contract; and the board may accept on behalf of the district appointment of the district as fiscal agent of the United States or authorization of the district by the United States to make collections of the money for and on behalf of the United States in connection with any federal reclamation project, organized hereunder as an irrigation district, whereupon the district shall be authorized to so act and to assume the duties and liabilities incident to such action, and such board shall have full power to do any and all things required by the federal statutes in connection therewith, and all things required by the rules and regula-

tions established by any department of the federal government in regard thereto. The use of all water required for irrigation of lands of any district formed under the provisions of this chapter, together with canals and ditches already constructed, the rights of ways for canals and ditches, sites for reservoirs and pumping plants, and all other property required in fully carrying out the provisions of this chapter, is hereby declared to be a public use, subject to the regulation and control of the state in the manner prescribed by law. If any contract is made with the United States as in this section provided and bonds are not to be deposited with the United States in connection with such contract, bonds need not be issued or, if required to raise funds in addition to the amount of such contract, shall be issued only in the amount needed in addition thereto.

Section 5. That Section 8395 be amended to read as follows:

Section 8395. Bonds, When Issued—Interest. As soon as practicable after the organization of any such district, the board of directors shall by a resolution entered on its record, formulate a general plan of its proposed operation, in which it shall state what constructed works or other property it proposes to purchase and the cost of purchasing the same; and further what construction work it proposes to do and how it proposes to raise the funds for carrying out such plan. For the purpose of ascertaining the cost of any such construction work, the board shall cause such surveys, examinations and plans to be made as shall demonstrate the practicability of such plan, and furnish the proper basis for an estimate of the cost of carrying out the same. All such surveys, examinations, maps, plans and estimates shall be made under the direction of a competent irrigation engineer and certified by him. The board shall then submit a copy of the same to the state engineer who, within ninety days thereafter, shall file a report upon the same with the board, which report shall contain such matters as, in the judgment of the state engineer, may be desirable. Upon receiving the report, the board of directors shall proceed to determine the amount of money necessary to be raised and, if a bond issue is contemplated, shall thereupon call a special election, at which shall be submitted, to the electors of such district possessing the qualifications prescribed by this chapter, the question of whether or not the bonds of such district shall issue and the amount so determined; provided, such bonds shall not be issued for more than the actual estimated cost of such ditches, the purchase price of ditches, the cost of construction work, all as contained in its general plan of operating as well as the first year's interest upon such bond issue.

Notice of such election must be given by posting in three public places in each election precinct in the district, for at least twenty days prior to the election, and also by publication of such notice in some newspaper, published in the county where the office of the board of directors of such district is located, once a week for at least three successive weeks. Such notice must specify the time of holding the election and the amount of bonds proposed to be issued, and the election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this chapter governing the election of officers; provided, no informalities in conducting such an election shall invalidate the same if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Bonds—Yes" and "Bonds—No," or words equivalent thereto. If a majority of the votes cast are "Bonds—Yes," the board of directors shall immediately cause bonds in such amount to be issued; such bonds shall be payable in lawful money of the United States, as follows: At the expiration of eleven years not less

than five per cent of such bonds; at the expiration of twelve years not less than six per cent; at the expiration of thirteen years not less than seven per cent; at the expiration of fourteen years not less than eight per cent; at the expiration of fifteen years not less than nine per cent; at the expiration of sixteen years not less than ten per cent; at the expiration of seventeen years not less than eleven per cent; at the expiration of eighteen years not less than thirteen per cent; at the expiration of nineteen years not less than fifteen per cent; and for the twentieth year a percentage sufficient to pay off such bonds, and shall bear interest at the rate of not to exceed six per cent per annum, payable semi-annually on the first day of January and July of each year. The principal and interest shall be payable at the office of the treasurer of the county in which such district was originally organized, or at any bank or financial center chosen by the board of directors and specified in the bonds, or at both of such places. The bonds shall be each of a denomination of not less than one hundred nor more than five hundred dollars, shall be negotiable in form, executed in the name of the district and signed by the president and secretary, and the seal of the district shall be affixed thereto. They shall be numbered consecutively as issued and bear date at the time of their issue. Coupons for the interest shall be attached to each bond, signed by the president and secretary, or their lithographic facsimile. The bonds shall express on their face that they were issued by authority of this chapter. Each bond shall be made payable at a given time and for its entire amount, and the bonds issued in series only, each series being payable at the expiration of a certain number of years, as hereinbefore set forth. The secretary shall keep a record of the bonds sold, their number, date of sale, the prices received, and the name of the purchasers; provided, any such district may, by a majority vote, provide for the issuance of bonds that will mature in any number of years less than twenty, and arrange for the payment thereof in installments at the same ratio as above provided; and provided, further, such district by a majority vote may provide and authorize the payment of interest at a rate not exceeding six per cent per annum on any or all due and unpaid interest coupons attached to valid and outstanding bonds of such district heretofore or hereafter issued and sold, from the date of registration of such interest coupons for payment or, if previously registered, from the date of such election to pay such interest, until paid. Such question may be submitted at any general or special election of the district by ballot, which shall generally describe the bonds to which such coupons are attached upon which such interest is to be paid, by number, series and date of issue. and such ballots shall be in substantially the following form:

"For the payment of interest on coupons attached to bonds numbered _____, series _____, dated _____ at _____ per cent per annum—Yes (or No)."

Such election shall be governed by the law relating to bond elections in such districts, and if a majority of the ballots cast on such proposition shall be in favor thereof, the board of directors shall declare the same adopted and the funds to pay such interest shall be estimated and included in the levy for the bond fund of such irrigation district as provided by law. Thereafter, upon the presentation of any bond with coupons attached, or any detached coupons of such bonds upon which interest is payable under the provisions of this chapter,

the treasurer shall stamp or write on such coupons: "Bears interest at per cent per annum from the date of registration for payment "(or)" from date of election to pay interest (if previously registered for payment.)

.....
County Treasurer."

And payment of such coupon shall include the payment of the interest accruing under this chapter.

In the month of October of each year after organization, the board of directors shall make a report to the state engineer of the condition of the work of construction, as to capacity, stability and permanency, and whether or not the plan of irrigation formulated under the provisions of this chapter is being successfully carried out, and whether or not in the opinion of the board the funds available will complete the proposed works, also any additional information regarding the condition of the district required by the state engineer. Upon the receipt of such report by the state engineer he shall make such suggestions and recommendations to such board of directors as he may deem advisable for the best interests of the district.

Provided, however, said bonds may be voted in the manner provided herein for the purpose of being delivered to the United States and held or sold by it as provided in Section 8392 of this Act, and when voted for said purpose, said bonds shall be in such form, terms and denominations as may be fixed by the Secretary of the Interior in carrying out the provisions of the Act of Congress of June 17th, 1902 (32 Stat. 388) and all acts amendatory thereof or supplementary thereto, or that may be hereafter enacted as amendatory thereof or supplementary thereto.

Section 6. Whereas, This Act is necessary for the support of the State government and its existing institutions, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage and approval.

Approved January 16, 1923.

Liens

CHAPTER 216.

(S. B. 11.)

RELATING TO AGISTERS' LIENS

AN ACT Entitled, An Act to Amend Section 1669 of the South Dakota Revised Code of 1919 Relating to Agisters' Liens and Providing for the Foreclosure of Same.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 1669 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 1669. **Who May Have Lien.** Any farmer, ranchman or herder of cattle, innkeeper, or liverystable keeper, to whom any horses, mules, cattle, sheep or other domesticated animals shall be entrusted for the purpose of feeding, herding, pasturing or ranching, shall have a lien thereon for the amount that may be due for such feeding, herding, pasturing or ranching, and shall be authorized to retain possession of the same until the said amount is paid; provided, that these provisions shall not be construed to apply to stolen stock, provided further, that in the event said animals so to be fed, herded or pastured, as aforesaid, shall be mortgaged, the person so feeding, herding or pasturing the same may serve notice in writing on the mortgagee, that he is feeding, herding or pasturing said animals, or is about so to do, which notice may be served personally or by sending the same by registered mail to said mortgagee at his Post Office address as set out in said mortgage; and in such event, the lien given as hereinabove set out shall be prior to said mortgage to the extent only of the value of said feed, herding or pasturing given and furnished subsequent to the service of said notice.

That said lien may be foreclosed by a sale of the property embraced in said lien upon the notice and in the manner provided by law for the foreclosure of chattel mortgages.

Approved February 8th, 1923.

CHAPTER 217.

(S. B. 266)

RELATING TO CRAFTSMAN'S LIEN

AN ACT Entitled, An Act Providing For a Craftsman Lien Upon Property and Manner of Foreclosing the Same.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Every craftsman shall have a lien upon any property left with him for repairs, for the value of such repairs, which lien may

be foreclosed after six months have elapsed from the date when such repairs were made in the following manner:

1. Such craftsman shall file a sworn account of such repairs, the value thereof and the name and the last known address of the owner thereof with the clerk of courts in the county where such repairs were made. The clerk of courts shall in a proper book kept for the purpose, make a minute of such filing.

2. The craftsman claiming such lien shall deposit in the United States post office, postage fully prepaid, by registered mail, addressed to the owner of such property, at his last known address, a sworn copy of such account and lien, and a notice of a time and place, not less than fifteen days after the mailing of such notice, where such property will be offered for sale. A copy of such notice of sale shall be posted at the office of the clerk of courts and at the front door of the place of business of such craftsman.

3. That at the time and place named in such notice such property shall be offered for sale and sold to the highest bidder for cash and the said craftsman shall deduct from the proceeds of such sale the actual cost of filing such lien and the return thereof and of the postage necessarily used, and shall forthwith file with the clerk of courts a copy of such notice, the price for which such property was sold and the name and address of the purchaser, and shall deposit with such clerk of courts any surplus received for such property above the amount of such repairs and the cost of foreclosure, which surplus shall be paid to the owner of such property.

Section 2. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Approved, March 7, 1923.

Manslaughter

CHAPTER 218.

(H. B. 298)

PROCURING DESTRUCTION OF UNBORN CHILD

AN ACT Entitled, An Act to Amend Section 4022 of the South Dakota Revised Code of 1919 Relating to Procuring Destruction of Unborn Child.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 4022 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 4022. **Procuring Destruction of Unborn Child.** Every person who administers to any woman pregnant with a quick child, or who prescribes for such woman, or advises or procures any such woman to take any medicine, drug or substance whatever, or advises or procures any such woman to use or employ, or to have used or employed, any instrument or other means, or who uses or employs any instrument or

other means, with intent thereby to destroy such child, unless the same shall have been necessary to preserve the life of such mother, is guilty, in case the death of the child or of the mother is thereby produced, of manslaughter in the first degree.

Approved March 6, 1923.

Marriage and Divorce

CHAPTER 219.

(S. B. 174.)

DIVISION OF PROPERTY ON DIVORCE

AN ACT Entitled, An Act to Amend Section 165 of the South Dakota Revised Code of 1919, Relating to the Powers of the Court in Divorce Actions to Make Equitable Division of Property, Whether in the Name of the Husband or the Wife.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 165 of the South Dakota Revised Code of 1919 be, and the same is hereby amended to read as follows :

Section 165. Where a divorce is granted for an offense of the husband, the court may compel him to provide for the maintenance of the children of the marriage, and to make such suitable allowance to the wife for her support during her life, or for a shorter period, as the court may deem just, having regard to the circumstances of the parties represented; and the court may from time to time modify its orders in these respects.

Where a divorce is granted for an offense of either husband or wife, the courts shall in such action have full power to make an equitable division of the property belonging to either or both, whether the title to such property is in the name of the husband or the wife. In making such division of the property the court shall have regard for equity and the circumstances of the party.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the Governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the Secretary of State with his objections, within the time limit prescribed by the Constitution, has become a law without his approval.

C. E. COYNE, Secretary of State.

CHAPTER 220.

(H. B. 67.)

RELATING TO RESTORATION OF WIFE'S FORMER NAME UPON DIVORCE

AN ACT Entitled, An Act to Provide for Changing and Determining the Names of Divorced Women, and Validating Decrees Changing Names of Divorced Women Prior to the Passage of this Act.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Whenever a decree of divorce is granted, the trial court may in its discretion, or upon the application of either party, by the terms of the decree restore to the woman her maiden name, or the name she legally bore prior to her marriage to the husband in the divorce suit: Provided, that when the custody of a minor child or children, the issue of the marriage, has been granted to the mother, this act shall not apply.

Section 2. The restoration to the wife of her former name in all decrees of divorce entered prior to the passage of this act are hereby validated and legalized, and all decrees providing for the restoration to divorced women of their former names are in that respect declared to be legal and valid.

Approved February 17, 1923.

Militia

CHAPTER 221.

(S. B. 259)

REPEALING SECTION 10552 REV. CODE

AN ACT Entitled, An Act to Repeal Section 10552 of the Revised Code of 1919, Relating to Assessors Enumerating Persons Liable to Perform Military Duty, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 10552 of the Revised Code of 1919, requiring all assessors to enumerate persons liable to perform military duty, and auditors to certify such lists to the Adjutant General, be and the same is hereby repealed.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved February 27, 1923.

Mortgages

CHAPTER 222.

(H. B. 140)

SURPLUS PROCEEDS ON FORECLOSURE

AN ACT Entitled, An Act to Amend Section 2885 of the South Dakota Revised Code of 1919, Relating to the Disposition of the Proceeds of Sale Upon Mortgage Foreclosure by Advertisement.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 2885 of the Revised 1919 Code of the State of South Dakota be amended to read as follows:

Section 2885. **Proceeds of Sale.** It shall be the duty of every officer who conducts any such sale to apply the proceeds thereof as provided in Section 2905, except that the surplus, if any, shall be paid to the Clerk of the Circuit Court and he shall take his receipt therefor. The sheriff shall forthwith give notice by mail to the mortgagor, his personal representatives or assigns, and to all persons holding junior incumbrances or liens, of the deposit of such surplus with the Clerk. If such surplus, or any part thereof, shall remain with the Clerk of said Court for a term of three (3) months without the rights thereto being fully determined, the Clerk may deposit same in some bank in said county and take an interest bearing certificate of deposit therefor, and hold same for the benefit of the person or persons who may be entitled thereto until the rights of the parties thereto have been fully determined.

Approved March 6, 1923.

CHAPTER 223.

(S. B. 71.)

RELATING TO PAYMENT OF PRIOR INCUMBRANCES BY SUBSEQUENT INCUMBRANCERS OR PURCHASERS AT SALE

AN ACT Entitled, An Act to Amend Section 2888 of the South Dakota Revised Code of 1919, Relating to the Payment by Subsequent Mortgages or Past Due Interest and Principal on Prior Mortgages.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 2888 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 2888. In case any installment of interest or principal upon any prior or superior mortgage shall become due and the mortgagor or his successor in interest shall fail to pay such interest or principal, the holder of any inferior mortgage may pay such interest or principal upon

such prior mortgage, and the amount so paid shall thereupon be added to the amount due on the mortgage held by the person making such payment and may be included in such mortgage upon foreclosure of same and in all cases where real property has been heretofore, or shall be hereafter, sold on execution or in any mortgage foreclosure proceeding, the purchaser at such sale, or his successor or successors in interest, may, during the year or years of redemption, in case of the expiration during such year of any insurance policy on the premises sold, pay the premium necessary to procure a renewal of such policy; and in case of any taxes or assessments being delinquent, or in case any installment of interest or principal upon any prior or superior mortgage shall be due or become due during such period of redemption, the purchaser may pay the same, and, in all such cases, the amount so paid, with interest thereon, shall be and constitute a part of the sum necessary to be paid for the redemption from such sale. Such payments may be proved by a written notice thereof verified by the affidavit of the purchaser, his agent or attorney, stating the items and describing the premises, which may be recorded in the office of the register of deeds, and a copy thereof served upon the sheriff of the county, and from the date of such service the sheriff, before issuing any redemption certificate, must collect the full amount specified in such notice in addition to the amount which would otherwise be due in redemption from such sale, and pay the same over to the purchaser at such sale, or his assignee.

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1923.

Motor Vehicles

CHAPTER 224.

(S. B. 37)

RELATING TO STATE LICENSE

AN ACT Entitled, An Act to Amend Section 8650 of the Revised Code, as Amended by Chapter 266 of the Session Laws of 1919, Relating to the Registration and Licensing of Motor Vehicles, Including Motor Busses Owned and Operated by School Districts, Counties and Municipal Corporations and Providing for Identification Marks on State Owned Motor Vehicles.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 8650 of the Revised Code of 1919, as amended by Chapter 266 of the Session Laws of 1919, is hereby amended to read as follows:

"Section 8650. **State and Federal Motor Vehicles and Motor Busses of School Districts.**" Motor vehicles which are the property of this

State, or of the United States, or of counties or municipal corporations in this State, and motor busses owned and operated by school districts, may be registered upon application, in the manner provided for other motor vehicles, except that such application shall be made by the custodian of any such vehicle direct to the Secretary of State. No fee shall be charged for the registration of any such vehicle, and number plates therefor shall be furnished by the Secretary of State, upon payment to him of the actual cost price of such plates. Provided, that all State owned motor vehicles shall have printed on both sides thereof in letters not less than three inches high and in colors plainly visible, the words "South Dakota" and the name of the office, institution or department to which such motor vehicle belongs or has been assigned to, except cars used by the departments of the State Sheriff, Food and Drugs and Fish and Game.

Approved February 24, 1923.

CHAPTER 225.

(S. B. 262)

IMPOSING TAX ON MOTOR VEHICLE FUELS

AN ACT Entitled, An Act to Impose a Tax Upon the Sale of Motor Vehicle Fuels; Providing for the Collection of Said Tax, for Reports of Sale of Such Motor Fuels and for the Disposition of the Revenue Derived Therefrom; Regulating the Sale of Such Fuels and Fixing Penalties for the Violation of this Act.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That the words, terms and phrases in this act, are for all of the purposes thereof, defined as follows:

(a) "Motor Vehicles" means and includes all vehicles, engines or machines, movable or immovable, which are operated or propelled in whole or in part by internal combustion of any one or more of the "motor vehicle fuels" defined herein.

(b) "Motor vehicle fuels" means and includes gasoline, benzine, naptha, benzol, and such other volatile and inflammable liquids as may be produced or compounded for the purpose of operating or propelling motor vehicles, except the product commonly known as kerosene oil.

(c) "Dealer" means and includes any person or persons, firm, association or corporation who imports or causes to be imported from any other state or country, any motor vehicle fuel for operation propelling motor vehicles for use, distribution or sale in and after the same reaches the state of South Dakota; and also any person or persons, firm, association or corporation who produces, refines, manufactures or compounds any motor vehicle fuel in the State of South Dakota for use, distribution or sale within this state.

Section 2. That each and every dealer in motor vehicle fuel, as defined in this act, who is now engaged or who may hereafter engage in his own name, or in the name of others or in the name of his representative or agents in this state, in the sale or use of motor vehicle fuel as herein defined, shall, not later than the 15th day of each calendar month render to the State Auditor, on forms prescribed, prepared and furnished by the State Auditor, a sworn statement of the number of

gallons of motor vehicle fuel sold or used by him or them during the preceding calendar month, which statement shall be sworn to by one of the principal officers, in case of domestic corporations, or by the resident general agent, or agents, or attorney-in-fact, or by a chief accountant or officer. In case of a foreign corporation, by the managing agent or owner in case of a firm, association or individual, and shall contain a statement of the quantities of motor vehicle fuel sold or used within the state of South Dakota from his or their respective places of business, and if any of such motor vehicle fuel has been sold and delivered by said dealer to customers in the original package, whether in tank, cars, barrels or other packages and in the same form and condition in which the same was imported, said statement shall show the amount of motor vehicle fuel so sold and the names and addresses of the persons, firm or corporations to whom the same was so sold.

Said dealer shall pay a license tax of two cents per gallon on all motor vehicle fuel used and sold by him other than such fuel sold by him or them in the original packages as above specified, and shall have the option of paying said tax of two cents per gallon on all motor vehicle fuel sold by him or them in the state in the original packages in which the same was imported as above specified.

Whenever any sale is made by a dealer of motor vehicle fuel in the original packages in which the same was imported as above specified, such dealer shall deliver to the purchaser thereof an invoice of such motor vehicle fuel, stating the name and address of the purchaser, the quantity and kind of fuel sold, and whether or not said dealer assumes and agrees to pay the license tax on said fuel above specified, and such dealer shall transmit to the State Auditor at the same time he shall render the statement above specified, duplicate copies of all such invoices issued and delivered by him during the period covered by such statement. Provided, however, in cases of compounds or when tax shall have been paid under Chapter 292 of the Session Laws of 1921, on motor fuel, credit shall be allowed for any tax already paid on any of the ingredients entering into such compound or on said motor fuel.

Section 3. Every dealer paying such license tax or being liable for the payment thereof, shall be entitled to charge and collect the sum of 2 cents per gallon, on such motor fuel sold by him, as a part of the selling price thereof.

Section 4. That all dealers in motor vehicle fuel in the State of South Dakota shall file a duly acknowledged certificate with the State Auditor, on forms prescribed, prepared and furnished by the said State Auditor, which shall contain: The name under which such dealer is transacting business within the state of South Dakota; the names and addresses of the several persons constituting the firm or partnership, and, if a corporation, the corporate name under which it is authorized to transact business, and the names and addresses of its principal officers, resident general agent and attorney-in-fact. And the place or places of business of such dealer and whenever such dealer shall open up any new place of business, he shall forthwith report such fact to the State Auditor.

Section 5. That said license tax in respect to motor vehicle fuel sold or used in any calendar month shall be paid at the same time the statement provided for in Section 2 hereof is rendered, to the State Auditor, who shall receipt the dealer therefor, and shall forthwith pay over all of the money to the State Treasurer thus received, except such money as shall have been expended by said State Auditor for the purpose of making refunds as herein provided, and the State Treasurer shall

promptly credit the amount of such payment to the State Highway Commission. All money so credited is hereby appropriated to be used by such commission for the construction, reconstruction, maintenance or repairs of highways or roads under the jurisdiction of said commission.

Section 6. That any person or persons, firm or corporation who shall buy or use any motor vehicle fuel as defined in this act for the purpose of operating or propelling stationary gas engines, tractors used for agricultural purposes, motor boats, airplanes or aircraft, or who shall purchase or use any of such fuel for lighting, heating, cleaning or dyeing or other commercial use of the same except motor vehicles operated or intended to be operated in whole or in part upon any of the public highways of the State of South Dakota, on which motor fuel the tax imposed by this Act has been paid, shall be reimbursed and repaid the amount of such tax paid by him upon presenting to the State Auditor, on a form prescribed by the State Auditor, a sworn statement setting forth the total amount of such fuel purchased and used by such consumer other than in motor vehicles operated or intended to be operated upon any of the public highways of the state of South Dakota and the purpose for which said motor vehicles upon which he claims exemption from said tax was used, and such other information as the State Auditor shall require, and the said State Auditor upon the presentation of such sworn statement, shall cause to be repaid to such consumer from the taxes collected on motor vehicle fuels, the said taxes on fuels purchased or used than for motor vehicles as aforesaid; provided, that such applications for and refunds of such taxes shall be made not oftener than at the beginning of the quarter of each calendar year.

Section 7. That the records of all purchases, receipts, sales, distribution and use of motor vehicle fuel of every dealer shall at all times during the business hours of the day be subject to inspection by the State Auditor or by any agent or employee thereof duly authorized by him.

Section 8. It shall be unlawful for any person or persons, firm or corporation to purchase, receive or accept any motor vehicle fuel from any dealer in the original package as the same was imported into the state as specified in Section 2 hereof, or to pay for same, or to sell or offer same for sale, unless the invoice provided for in Section 2 hereof was by said dealer delivered to him at the time of the purchase or receipt of said motor vehicle fuel. Any person, firm or corporation who shall purchase or receive any motor vehicle fuel from any dealer in this state in the original packages in which the same shall have been imported, and upon which fuel the said dealer shall not have assumed to pay the tax as provided in this act, shall, on the 15th day of each month render to the State Auditor the same statement required of the dealer by Section 2 hereof, and at the same time shall remit and pay to said State Auditor a license tax of two cents per gallon on such motor vehicle fuel, upon which the dealers has not assumed the tax.

Section 9. That any dealer, person or association of persons, firm, or corporation violating any provision of this Act, or any person, firm or corporation who shall make any false statement in any statement or report required by this act or who shall make any false statement in connection with an application for the refund of any money of taxes provided in this Act, or who shall collect or cause to be repaid to him or to any person any tax not being entitled to the same under the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than Five

Hundred (\$500.00) Dollars or be imprisoned in the county jail for not more than 90 days, or by both such fine and imprisonment.

Section 10. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 12, 1923.

Municipal Corporations

CHAPTER 226.

(S. B. 162)

RELATING TO ASSESSMENTS FOR LOCAL IMPROVEMENTS

AN ACT Entitled, An Act to Amend Section 6407 of the Revised Code of South Dakota for 1919, Relating to the Payment of Installments of Assessments for Local Improvements.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6407 of the Revised Code of South Dakota for 1919 be and the same is hereby amended to read as follows:

Section 6407. **Payment of Installments.** When an assessment is divided as provided in the preceding section, the first installment shall be due and payable upon the filing of the certified copy of the assessment roll with the city or town treasurer, and subsequent installments shall be due and payable one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen and fourteen years from the date of such filing, with interest at such rate as the governing body shall by ordinance prescribe: Provided, such rate shall not exceed seven per cent per annum, payable annually on the whole sum unpaid at the maturity of the several installments. Each of such installments shall become delinquent sixty days from the date it becomes payable and thereafter shall draw interest and penalty, and be certified to the county auditor and county treasurer in the same manner as an undivided assessment; provided, further, that any or all installments may be paid to the city or town treasurer at any time before maturity, in which case interest shall be collected only to the time of payment, and the lien of the assessment be discharged to the extent of such payment. Provided, further, that first installments shall draw no interest until they become delinquent, but all subsequent installments shall draw interest at the rate prescribed by the governing body as hereinbefore set out from and after the filing of the certified copy of the assessment roll with the city or town treasurer until they respectively become delinquent and begin to draw interest and penalty as delinquent installments as above set out.

Approved March 12, 1923.

CHAPTER 227.

(H. B. 115)

DIVISION OF SPECIAL ASSESSMENTS IN INSTALLMENTS

AN ACT Entitled, An Act to Amend Section 6406 of the South Dakota Revised Code of 1919 Relating to Installments of Special Assessments.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6406 be and the same is hereby amended to read as follows:

Section 6406. Before any contract is let for any local improvement for which special assessments are to be levied, the governing body may, by ordinance, provide that such assessments shall be divided into any number of equal annual installments not exceeding fifteen.

Approved, March 7, 1923.

CHAPTER 228.

(H. B. 247)

RELATING TO ISSUANCE OF BONDS

AN ACT Entitled, An Act to Amend Section 6413 of the Revised Code of 1919, Relating to the Issuance of Bonds by Municipal Corporations, and Requiring a Three-fifth Vote of the Electors.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6413 of the Revised Code of 1919 is hereby amended to read as follows:

Section 6413. **Power to Borrow Money and Issue Bonds.** Every municipal corporation shall have power to borrow money on the credit of the corporation for any authorized corporate purpose, within the constitutional limitations of municipal indebtedness, and to issue its negotiable bonds therefor in such amounts and forms and upon such conditions as it may prescribe; provided, that no bonds shall be issued under the provisions of this section, either for general or special purposes by any city, unless, at an election after ten days notice, in a newspaper published in the municipality, stating the purpose for which the bonds are to be issued, and the amount and rate of interest thereof, the legal voters of such city, by a three-fifths of all the legal voters present and voting at such election shall determine in favor of issuing the same; and that no bonds shall be issued under the provisions of this section by any town unless five-eighths of all the resident freehold voters of such town, as evidenced by the assessment roll of the preceding year, shall petition the board of trustees to issue the same and such petition shall have attached thereto an affidavit verifying the genuineness of the signatures thereto.

Approved, March 7, 1923.

CHAPTER 229.

(H. B. 48.)

RELATING TO CITIES EMPLOYING A CITY MANAGER

AN ACT Entitled, An Act Amending Section 2 of Chapter 296, Session Laws of 1921 Relating to Cities Employing a City Manager.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That section 2 of chapter 296, Session Laws of 1921 be, and the same is hereby amended to read as follows:

Section 2. The duties and powers of the mayor of any city employing or which may employ a city manager shall be as follows:

(1) He shall be the presiding officer of the council or commission, and in cities having the Aldermanic Form of Government, he shall have the powers and duties of an alderman at large.

(2) He shall be recognized head of the city by the courts for the purpose of serving civil processes, by the Governor for military purposes, and for all ceremonial purposes.

(3) He may take command of the police of the city, appoint special police and govern the city by proclamation during times of public danger or emergency, and during such times he shall have such powers and authority as are given to the mayor by Section 6280 of the Revised Code of 1919.

(4) He shall perform such other duties as may be provided by law or by ordinance or by resolution of the council or board of commissioners, but in no case shall he have the right of veto.

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing public institutions, an emergency is hereby declared to exist and this act shall be in force and effect from and after its passage and approval.

Approved February 13, 1923.

CHAPTER 230.

(S. B. 264)

AUTHORIZING CITIES TO PROVIDE A COMMUNITY HOUSE

AN ACT Entitled, An Act Amending Sub-Division 16 of Section 6170 of the 1919 Revised Code of South Dakota, Relating to Powers Enumerated and Granted to All Cities.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Sub-division 16 of Section 6170 of the 1919 Revised Code of South Dakota, be and the same is hereby amended to read as follows:

Sub-division 16. To own, build, equip, control and maintain a public gymnasium or public community house within the city limits and acquire by purchase or gift the necessary real property therefor, when authorized and empowered by a majority vote of the electors of such city voting on such proposition at any annual or special election of such

city. The cost of such gymnasium or public community house including the real property upon which the same is erected and equipment therein, shall not exceed the sum of eight mills on the dollar of the assessed valuation of the property of the municipality for the fiscal year preceding that in which such expenditure is determined upon by the municipal government, provided that such city may accept and own such property by way of gift, regardless of the value of such gift. The annual cost of maintenance of such gymnasium or public community house shall not exceed the sum of one mill on the dollar of the assessed valuation of the property of the municipality for the fiscal year preceding the expenditure. The determination of the municipal government to erect such gymnasium or public community house and purchase a site therefor and the cost thereof shall be determined by ordinance and the annual cost and maintenance shall be provided for by the municipal government annually at the time that the levy of taxes for general municipal purposes is made; provided, that in case of gift of such property to the municipal corporation, no ordinance to accept the same shall be necessary, but such gift may be accepted by resolution of the governing body entered upon the minutes of its proceedings. Provided, that bonds may be issued therefor not exceeding the amount hereinbefore provided.

Approved March 12, 1923.

CHAPTER 231.

(H. B. 316.)

RELATING TO IRRIGATION

AN ACT Entitled, An Act to Amend Subdivision Twelve of Section 6169 of the South Dakota Revised Code of 1919, Relating to the Powers of Municipal Corporations to Construct and Maintain Waterworks and Irrigation Systems and to Regulate the Same, and Providing for Assessing the Cost of Irrigation Systems Against Abutting or Benefited Property.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Subdivision twelve, of Section 6169 of the South Dakota Revised Code of 1919 is hereby amended to read as follows:

Section 6169. **Subdivision Twelve.** To construct and maintain waterworks and to make all needful rules and regulations concerning the distribution and use of water supplied by such waterworks; also to construct and maintain a system of irrigation within the municipality and to assess the cost thereof against abutting or benefited property in the manner provided in Sections 6396 to 6412 inclusive, South Dakota Revised Code of 1919, and amendments thereto relating to Special Assessments, and to make all needful rules and regulations concerning the distribution and use of water supplied for irrigation; provided that connection with an irrigation water supply system may be available, or if not available, that the construction by the municipality of a means of water supply for irrigation shall be authorized at a regular or special election within and for the municipality.

Approved March 8, 1923.

CHAPTER 232.

(S. B. 219.)

AUTHORIZED TO SUPPRESS INTOXICATING LIQUORS

AN ACT Entitled, An Act to Empower Municipal Corporations to Prohibit and Suppress the Traffic in, and the Manufacture, Keeping and Use of Intoxicating Liquors.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Municipal corporations are hereby empowered to prohibit and suppress the traffic in, and the manufacture, keeping, and use of intoxicating liquors.

Approved March 9, 1923.

CHAPTER 233.

(S. B. 129.)

MAY APPROPRIATE FUNDS FOR MEMORIAL DAY AND ARMISTICE DAY

AN ACT Entitled, An Act to Amend Sub-division 80 of Paragraph 6169 of the Revised Code of South Dakota, 1919 and to Confer Upon Municipal Corporations the Power to Appropriate Funds for the Observance of Memorial Day and Armistice Day.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Subdivision 80 of Section 6169 of the Revised Code of South Dakota 1919 is hereby amended to read as follows:

Section 6169, Subdivision 80. To appropriate funds for the purpose of defraying the necessary expenses of a proper observance of Memorial Day and Armistice Day.

Approved March 8, 1923.

CHAPTER 234.

(H. B. 177.)

POWER TO LEVY TAXES FOR MUSICAL CONCERTS

AN ACT Entitled, An Act to Amend Subdivision 79 of Section 6169 of the South Dakota Revised Code of 1919 Relating to the Powers of Municipal Corporations.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Subdivision 79 of Section 6169 of the South Dakota Revised Code of 1919 be amended as follows:

Section 6169. (Subdivision 79.) To levy a tax of not exceeding one mill on each dollar of taxable property within the municipal corporation for the purpose of creating a fund for the furnishing of free musical concerts to the public, to be used for no other purpose; provided, that before any levy of such tax shall be made there shall be filed with the city auditor or town clerk of such municipal corporation a petition, signed by at least twenty per cent of the electors thereof, as shown by the vote for members of the city council, board of commissioners or board of trustees at the last preceding annual election, requesting that the proposition of levying such tax be submitted to the electors at the next annual election, such petition to be filed at least ten days preceding the annual city or town election. Upon the filing of such petition it shall be the duty of the city auditor or town clerk to submit such proposition to the voters at such election, upon a separate ballot. If a majority of the electors of such city or town voting at such election shall vote in favor of such proposition, then the levy of such tax shall be deemed authorized, otherwise no such levy shall be made. Provided, that after the levy of such tax has once been made as herein provided the same may be annually continued thereafter without the filing of any further petitions. Provided further, that if there be filed, at least ten days preceding the annual city or town election, with the city auditor or town clerk of such municipal corporation, a petition signed by at least twenty per cent of the electors thereof, as shown by the vote for members of the city council, board of commissioners or board of trustees at the preceding annual election, requesting that the proposition of levying such tax be again submitted at the next annual election, such proposition shall be again submitted to the voters as herein provided, and if a majority voting on the proposition shall vote against the levy of such tax no further levy shall be made until the proposition shall have again been submitted to the electors of the municipal corporation and a majority vote shall have been cast in favor of such levy as provided in this section.

Approved March 8, 1923.

CHAPTER 235.

(H. B. 99.)

RELATING TO ELIGIBILITY OF OFFICE

AN ACT Entitled, An Act to Amend Section 6267 of the South Dakota Revised Code of 1919, Relating to Eligibility of Municipal Officers.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 6267 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 6267. **Eligibility.** No person shall be eligible to any municipal office who is not a qualified elector of the corporation, and who shall not have resided therein at least nine months next preceding his election or appointment; nor shall any person be eligible to any municipal office who is a defaulter to the corporation; provided, that the city attorney, police officers and city engineer need not be qualified electors of or residents of the city.

Approved February 15, 1923.

CHAPTER 236.

(S. B. 184)

RELATING TO CONDEMNATION OF LAND FOR PUBLIC PARKS

AN ACT Entitled, An Act Amending Sections 6475 and 6491 of the South Dakota Revised Code of 1919, Relating to Costs and Expenses in Condemnation Proceedings.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 6475 of the Revised Code of the State of South Dakota for 1919 be amended to read as follows:

Section 6475. **Ordinance May Be Repealed, When.** The governing body shall have power, with the concurrence of the Board of Park Supervisors, at any time before any of the parties assessed with benefits shall have paid the amount so assessed, to repeal the ordinance ordering the proposed improvement, if such repeal be deemed for the best interests of the city; and in such event the judgment for compensation and benefits shall be void; provided, that in case the city shall dismiss said petition for condemnation at any time after the commencement thereof, or shall repeal the ordinance ordering the proposed improvement, as above provided, that then the court shall upon application of the defendants to said petition, or any of them, make such order in such cause for the payment by the city of all costs, expenses and reasonable attorney fees of such defendant or defendants, paid or incurred by such defendant or defendants in defense of said petition, as upon the hearing of such application shall be right and just, and also for the payment of the taxable costs.

Section 2. That Section 6491 of the Revised Code of the State of South Dakota for the year 1919 be amended to read as follows:

Section 6491. Costs of Proceeding, How Paid—City Attorney to Conduct All Court Proceedings. The city shall pay all costs of proceedings under this article to take or damage private property or to levy assessments for benefits in payment of land purchased as herein provided, including all expenses and reasonable attorney fees of the defendant or defendants to said petition, paid or incurred by such defendant or defendants in defense of said petition, as upon application to the court may be determined right and just, and including also the taxable costs, and the city attorney shall, personally or by any of his assistants and as a part of his duties, conduct all court proceedings under this article, and shall be the legal adviser of the board of park supervisors; provided, that the board may, in any special case, upon request of the city attorney, or when in its judgment the interests of the city demand, employ temporarily special counsel to assist the city attorney; provided, that costs of proceedings for collecting overdue assessments shall be taxed against the real estate upon which such assessments are levied, and that costs upon appeal shall be paid by the party unsuccessfully prosecuting the same.

Approved March 12, 1923.

CHAPTER 237.

(S. B. 169)

RELATING TO IMPROVEMENTS IN PUBLIC PARKS

AN ACT Entitled, An Act Authorizing Park Boards Created by Ordinance to Petition by Resolution the Governing Body of the Municipality to Submit at the Annual City Election the Question of the Expenditure of Money of Said Municipality for the Purpose of Constructing a Swimming Pool or Other Improvements in a Public Park, and Authorizing and Requiring the Governing Body of the Municipality to Submit Said Question to the Voters, and Providing Means for Raising Such Funds and Directing Their Payment.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. When, in its judgment, it shall be necessary and needed for public welfare, a Park Board created by ordinance shall have the power to petition by resolution, the auditor of the municipal corporation, under which it was created, requesting that the proposition of constructing a swimming pool or other like improvements in a public park be submitted to the electors at the next annual election. Such resolution shall contain a statement of the contemplated improvement, and amount of money necessary for its construction and shall be filed with the auditor of such city at least twenty (20) days preceding the annual city election. Upon the filing of such resolution, it shall be the duty of the city auditor to submit such proposition to the voters at the next annual city election on separate ballot. If a three-fifths of the electors of such city voting on such proposition, shall vote in its favor, then the expenditure for such purpose shall be deemed authorized, provided, however, that no such proposition shall be for a larger amount than two mills on each dollar of taxable property within the municipal corporation at the time the last assessed valuation was taken. In case the three-fifths vote is in favor of the proposition submitted, it shall be the duty of the governing body of such city to immediately take steps

to provide said amount for the use of said Park Board, and to pay it to them as soon as needed for such construction. The said Park Board shall use the funds so received for the purpose authorized and for no other. Such election, if favorable, shall constitute full authority for the governing body to provide such amount from the general fund of the city or through the issue and sale of bonds, such bonds shall be issued, sold and their payment provided for in the same manner as other bonds are now issued by municipal corporations, except that no further election shall be necessary to authorize the issue and sale of such bonds. Provided, further, that any amount so paid from the general fund of said city may be returned to said fund at any time thereafter by the issue and sale of bonds.

Approved March 12, 1923.

CHAPTER 238.

(H. B. 97.)

RELATING TO POWERS OF MUNICIPAL CORPORATIONS

AN ACT Entitled, An Act to Amend Subdivision 81 of Section 6169 of the South Dakota Revised Code of 1919 Relating to the Powers of Cities.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Subdivision 81 of Section 6169 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 6169, Subdivision 81. To enact all such ordinances as may be proper and necessary to carry into effect the powers granted thereto, to amend, revise or repeal the same, and to provide for the punishment of each violation thereof by a fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment; provided, that in cities where a municipal court is maintained, the Governing Body shall have the power to provide for the punishment of each violation thereof by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

Approved February 15, 1923.

CHAPTER 239.

(H. B. 189)

RELATING TO POWERS OF POLICE

AN ACT Entitled, An Act to Amend Section 6301 of the South Dakota Revised Code of 1919, as Amended by Chapter 304 of the Session Laws of 1921, Relating to Police.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6301 of the South Dakota Revised Code of 1919, as amended by Chapter 304 of the Session Laws of the State of South Dakota for the year 1919, be and the same is hereby amended to read as follows:

Section 6301. **Powers and Duties.** The chief of police shall perform such duties as shall be prescribed by the governing body of the municipal corporation for the preservation of the peace. All policemen of any municipal corporation shall possess the powers of constables, and it shall be their duty to execute and serve all warrants, process, commitments and writs issued by the municipal court or justices of the peace, and for any violation of the laws of the state or ordinance of the municipality; and also all writs and process issued by the municipal court or justices of the peace, in civil actions; and they shall have authority to pursue and arrest any person fleeing from justice in any part of the state, and when performing the duties aforesaid shall have authority to arrest and detain any person guilty of any breach of the peace or any violation of the laws of the state or ordinances of the municipality, and for these purposes shall possess the powers of constables under the laws of this State while on duty. Provided: That any peace officer of any municipal corporation which is situated in more than one county, may serve or execute any civil process within any of the counties in which such corporation is situated.

Section 2. Whereas, this Act is necessary for the support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall take effect on and after its passage and approval.

Approved, March 7, 1923.

CHAPTER 240.

(S. B. 141.)

RELATING TO RESOLUTION FOR LOCAL IMPROVEMENTS

AN ACT Entitled, An Act to Amend Section 6364 of the Revised Code of South Dakota of 1919 Relating to the Improvement of Streets, Avenues, Alleys and Public Ways for Which Special Assessments May be Levied, and the Manner of Proposing and Adopting Resolutions of the Governing Body Therefor, and Giving Notice Thereof.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6364 of the Revised Code of South Dakota of 1919 is hereby amended to read as follows:

Section 6364. Proposed Resolution—Notice—Adoption. Whenever the governing body of any municipal corporation shall deem it necessary to open, widen, extend, grade, pave, macadamize, gravel, bridge, construct a viaduct upon or over, to erect equipment for street lighting in, curb, gutter, drain or otherwise improve, any streets, avenues, alleys or public ways for which a special assessment is to be levied, it shall, in a proposed resolution declare the necessity of such improvement or improvements stating therein the streets, avenues, alleys, public ways or grounds to be improved, the nature of the proposed improvement or improvements, the material to be used or materials from which a choice may be made, an estimate of the total cost or cost per front foot, a description of the lots or tracts proposed to be assessed, and the time and place at which it will meet to consider the adoption of such resolution, which resolution shall be published in the official newspaper of the municipality once a week for three consecutive weeks prior to the time specified in said resolution for the consideration of the adoption of the same. Provided, that if such improvement be petitioned for by the owners of all the property to be assessed therefor, such improvement may be provided for by resolution, without publication; provided further, that twenty days' notice by personal service of such proposed resolution upon the record owners of such lots or tracts, who were such at the time the resolution was proposed, shall be equivalent to such publication.

The improvement or improvements of more than one street, avenue, alley or public way may be embraced in one proposed resolution, provided only that said improvement or improvements shall be substantially uniform as to all streets, avenues, alleys and public ways embraced in said resolution; but minor variations in amount of grading or excavating required in or upon various portions of said improvement or improvements, or other minor variations in the actual amount of labor required in the erection or construction of various portions of said proposed improvement or improvements shall not be held or taken as any departure from the uniformity above required.

At the time of such meeting or at any adjournment thereof, the governing body shall consider the objections, if any, to such proposed resolution and may adopt such resolution, with or without amendment, as it may deem proper; but no amendment shall be made affecting any property not included in the original resolution until the owner thereof shall have been given the notice and opportunity to be heard hereinbefore provided. After twenty days from the adoption of such resolution, unless the referendum be invoked or unless a written protest shall have

been filed with the city auditor or town clerk, signed by the owners of more than sixty-five per cent of the frontage of property liable to assessment, the governing body shall have power to cause such improvement to be made, to contract therefor and to levy and collect special assessments therefor, as provided in Article 6 of this chapter.

Approved March 9, 1923.

Municipal Courts

CHAPTER 241.

(S. B. 201)

SALARY OF MUNICIPAL JUDGE

AN ACT Entitled, An Act to Amend Section 5209 of the South Dakota Revised Code of 1919 as Amended by Chapter 76 of the Session Laws of the Second Special Session of the Sixteenth Legislature, Relating to the Salary of the Judge of Municipal Courts.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 5209 of the South Dakota Revised Code of 1919 as amended by Chapter 76 of the Session Laws of the Second Special Session of the Sixteenth Legislature be and hereby is amended to read as follows:

Section 5209. **Salary of Judge.** In cities having a population of five thousand, such judge shall receive in full compensation for his services the sum of \$1,500.00 per annum and for each additional thousand population or majority fraction thereof in excess of five thousand, an additional sum of \$250.00 per annum; provided, that in no case shall such salary exceed the sum of \$3,000.00 per annum, except in cities having a population of over 25,000, the maximum salary shall be \$3,600.00 per annum; the population to be determined at all times by the last census, Federal or State as it may be. The salary shall be paid monthly, half from the city treasury and half from the county treasury. The salary of such Judge in a city having a population of less than five thousand shall not be less than \$900.00 nor more than \$1,200.00 per annum, the same to be fixed by the city council or Board of Commissioners.

Approved March 6, 1923.

Oil and Gas

CHAPTER 242.

(H. B. 186)

RELATING TO OIL AND GAS WELLS

AN ACT Entitled, An Act Providing for the Regulation and Inspection of Oil and Gas Wells, Reporting Logs Thereof and Plugging of Abandoned Wells and Fixing Penalties for Violations of This Act.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Every corporation, joint stock company, partnership, association or individual claiming or exercising the right, to bore, drill or otherwise construct any oil or gas wells within the State of South Dakota for the purpose of testing any fields or structures as to their oil possibilities or for the purpose of producing oil or gas in such fields or structures shall keep a true and accurate log of the formations encountered in drilling or constructing such well, and shall file a certified copy of such "log" with the State Securities Commission every two weeks during the period covered by such drilling operations and shall upon the completion or abandoning of such well file a full and complete report or "log" covering the full period of such drilling operations of each and every hole so drilled or constructed. Provided further that in the event any corporation, joint stock company, association or person coming under the provisions of this act, shall at any time halt or suspend active drilling operations upon any well or wells upon which they are at work, for a longer period than two calendar weeks, it shall be their duty to file with the State Securities Commission a full and complete report, setting forth the cause or reason for such delay or suspension of active operations and the depth attained and formation encountered up to the time such drilling operations ceased.

The State Securities Commission shall have the power at all times to inspect by a proper person, skilled in such business, to be designated by the State Securities Commission, any drilling operations coming under the provision of this Act whenever they have reason to believe the provisions of this Act are not being complied with, by the corporation, joint stock company, partnership, association or individual conducting such drilling operations, and the expenses of such inspection shall be borne and paid for by the parties or party so inspected.

Section 2. **Gas to Be Confined Until Used.** Any person, co-partnership or corporation in possession, either as owner, lessee, agent or manager of any well producing natural gas in this state in order to prevent the said gas wasting by escape shall, immediately after penetrating the gas-bearing rock, in any well hereafter drilled, shut in and confine the gas in said well until and during such time as the gas therein shall be utilized for lights, fuel or power purposes; Provided, that this section shall not apply to any well operated for oil; Provided, further, that when in the course of

drilling, gas production is developed, ten days free time shall be allowed in which to determine whether the well shall be shut and saved for a gas well or drilled further for the purpose of producing oil.

Section 3. Flambeau Lights Unlawful. It shall be unlawful to use natural gas for illuminating purposes in what are known as flambeau lights; but nothing herein shall prohibit the use of "Jumbo" burners or other burners in glass globes consuming no more gas than such "Jumbo" burners, nor the burning of flambeau lights, not to exceed four in number, within or near the derrick of any drilling well.

Section 4. Disposition of Waste From Wells. No inflammable product from any oil or gas well shall be permitted to run into any tank, pool or stream used for watering stock; and all waste of oil and refuse from tanks or wells shall be drained into proper receptacles at a safe distance from the tanks, wells or buildings, and be immediately burned or transported from the premises, and in no case shall it be permitted to flow over the land mineral water shall not be allowed to flow over the surface of the land.

Section 5. Producing or Abandoned Well to be Protected; How. All leasees or operators drilling or operating for crude oil or natural gas within this state, shall in a practical and workmanlike manner under the supervision of the State Engineer or his deputy, as hereinafter provided, plug or cement all dry or producing oil and gas wells in which oil or gas bearing strata has been found in the following manner: Where a well in which water bearing strata has been encountered is plugged or cemented as a producing or abandoned well or for any other purpose, same shall be plugged or cemented in the following manner: By placing pure cement properly mixed with water behind pipe by means of circulation under pressure to the proper level to shut off all waters encountered in holes. Provided, that all water bearing strata must be shut off either by cementing around casing, or if casing is removed each water bearing strata must be shut off by filling with sand or rocks to a point 25 feet below the water-bearing strata, at which point a wooden plug of seasoned pine not less than two feet in length and not less than one-half inch in diameter less than the inside diameter of the hole at that point shall be placed, thereafter the hole shall be filled up solidly to a point 25 feet above the said water bearing strata with a substance consisting of one-third dry cement and two-thirds sand mixed with water. If more than one water bearing strata has been encountered each of same shall be plugged in the same manner as above described.

Provided, further, that when said leasee or operator removes the derrick from around such wells he shall plug such wells in some good and substantial manner at least ten feet below the surface and fill such wells from that point to the surface with such material as will prevent well from caving before final abandonment. All of which must be done under the supervision of the State Engineer or his Deputy.

Section 6. "Plugged Well Record" Kept Open to Public. The State Engineer shall cause to be systematically filed the records of all oil and gas wells and dry holes plugged in accordance with the preceding section, showing the exact location of each of such wells, the name of the owner, the depth of the wells, and the formation encountered in drilling such wells. These records shall be kept in a book in his office which shall be known as the "Plugged Well Record," and shall be accessible to public inspection.

Section 7. Penalty for Violations. Any person, Co-partnership or corporation, its agent or employee, violating any of the provisions of this Act, or any order of the competent courts of this state, or the State Securities Commission, pursuant to the jurisdiction conferred by this Act, shall be deemed guilty of a felony and upon conviction thereof, be fined a sum of not less than one thousand dollars, nor more than five thousand dollars, or by imprisonment in the state penitentiary not less than six months nor more than one year, or by both such fine and imprisonment for each and every violation of this act; and the competent court of the county in which the omission or commission which is a violation of this Act has occurred shall have jurisdiction of an action under the penal code for the punishment thereof.

Section 8. Suspension of Penalty; When. Whenever the operation of a valid order of a competent court or the State Securities Commission is duly suspended, according to law, the punitive provisions of this Act shall likewise be suspended in their operation as to the transactions adjudicated in said court; and further, any court having jurisdiction of an action brought by the state to punish for a violation under the terms of this act, shall not impose a punishment therefor greater than five hundred dollars against any person or corporation, if it finds from the evidence that the violation was made solely with the object of testing according to law the validity of any of the provisions of this Act, or of the order of any competent court or of the corporation commission, in any proceeding to carry out the provisions hereof.

Section 9. Certified Transcript Shall be Evidence. A properly certified transcript of the report of any such corporation, association or person shall, as against the maker thereof, be prima facie evidence of the truth of any matter therein contained.

Section 10. Commission May Extend Time for Operation of Law. For good cause, shown, the State Securities Commission is authorized to extend the time within which this Act shall operate as to any particular corporation, association or person, not to exceed nine months after the same becomes effective.

Section 11. Whereas, this act is necessary for the support of the state government and its existing institutions an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

Predatory Animals

CHAPTER 243.

(S. B. 68)

PROVIDING FOR THEIR EXTERMINATION

AN ACT Entitled, An Act to Provide for the Destruction of Predatory Animals, the Sale of Parts of Same Having a Commercial Value, Making Appropriations Therefor, Providing for the Expenditure of the Same, and Repealing Sections 1040, 1041, 1042, 1043, 1044, 1045, 1046 and 1047 of the South Dakota Revised Code of 1919.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. For the purpose of destroying wolves, coyotes, mountain lions, bobcats, foxes, and other predatory animals destructive to livestock, poultry, game animals and game birds, the State Game and Fish Commission is hereby authorized and empowered to employ such methods as it deems advisable to destroy predatory animals throughout the State of South Dakota.

Section 2. The State Game and Fish Commission shall cooperate with the Biological Survey, United States Department of Agriculture, with any State or States or with any political sub-division of this State in destroying predatory wild animals and any funds appropriated for the purpose of this act shall be available for these purposes.

Section 3. The State Game and Fish Commission shall employ persons known to be skilled in trapping, poisoning or taking of predatory animals and may buy, distribute and authorize the use of poison, traps, guns, ammunition, hounds or other agencies or equipment necessary in destroying predatory animals to any hunter, trapper or employee engaged in the destruction of predatory animals, and shall fix the compensation of persons employed for the purposes of this act and may also join with the Biological Survey, United States Department of Agriculture, or the authorities of other states in the joint employment of persons engaged in this work, but in no case shall any bounty or reward be paid to any person so employed.

Section 4. All furs, skins or other parts of the carcasses of predatory animals taken by employees of the State Game and Fish Commission in accordance with the provisions of this act shall be the property of the State of South Dakota and those having a commercial value shall be sold by the State Game and Fish Commission and all funds derived from such sales shall be placed in the predatory animal fund and be available for use in carrying out the provisions of this act.

Section 5. The State Game Warden shall be in charge of all field activities provided for in this act and all expenses provided for in this act shall be paid from the predatory animal fund on the presentation of proper vouchers approved by the Chairman of the State Game and Fish Commission.

Section 6. To carry out the provisions of this act there shall be appropriated the sum of fifteen thousand dollars (\$15,000.00) available for each fiscal year, which fund shall be known as the predatory animal

fund, no part of which shall be paid as bounties or rewards to any person or persons whatsoever.

Section 7. Sections 10340, 10341, 10342, 10343, 10344, 10345, 10346, 10347 of the South Dakota Revised Code of 1919, be and the same are hereby repealed.

Approved March 12, 1923.

Public Accounts and Expenditures

CHAPTER 244.

(S. B. 165)

REQUIRING BIDDERS FOR PUBLIC CONTRACTS TO MAKE DEPOSIT

AN ACT Entitled, An Act to Require Public Corporations Within This State to Require From All Bidders Upon Contracts to be Publicly Let by Such Corporations, to Deposit With Their Bids Certified Checks, Certified by Some State or National Bank Within This State, for Five Per Cent of the Amount of the Bid.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. All public corporations within the State of South Dakota given the power by the laws of this state to contract for public improvements which require the letting of such contracts to be upon competitive bids, shall require of each and every bidder submitting a bid thereon to deposit with such bid, a certified check, cashier's check or draft for five per cent of the amount of the bid, such check to be certified or issued by either a State or National bank domiciled within this State, and payable to the public board or officer of such public corporation letting such contract and inviting bids thereon, as a guaranty that such bidder will enter into a contract with said public corporation, its board or officers thereof, in accordance with the terms of such letting and bid, in case such bidder be awarded the contract.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 12, 1923.

CHAPTER 245.

(S. B. 59.)

RELATING TO EXPENDITURES IN EXCESS OF APPROPRIATIONS

AN ACT Entitled, An Act to Amend Section 6891 of the South Dakota Revised Code of 1919, Relating to Expenditure in Excess of Appropriation, and Where No Appropriation Has Been Made and Providing a Penalty Therefor.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6891 of the South Dakota Revised Code of 1919 be, and the same is, hereby amended to read as follows:

Section 6891. **Expenditure in Excess of Appropriation.** No officer, board or commission supported by state appropriation shall incur any expense in excess of the appropriation made for his or its maintenance and support by which a deficiency may be created in the funds appropriated for the maintenance of any department, board, institution, commission or any other activity supported in whole or in part by state funds. Provided, that in case of extreme emergency caused by accident or some other cause wholly unavoidable or unforeseen by any such officer, board or commission, he or it may incur the necessary expense upon approval in writing by the Governor, which expense, thus incurred, shall be paid out of the existent appropriation made for the maintenance of such office, board or commission for the succeeding year when available. Provided, further, that when the legislature passes any law directing any officer, board or commission to do anything which might legitimately come under his or its jurisdiction and control which requires the expenditure of money and which legislature fails to provide the necessary funds therefor by appropriation or otherwise, it shall not be competent for such officer, board or commission to use any other funds under his or its control appropriated for a specific purpose by which such fund shall be depleted, nor shall any funds appropriated by the legislature for a specific purpose be used for any purpose other than that for which it was appropriated.

Any person who violates any provision of this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished accordingly.

Approved February 17, 1923.

Public Buildings

CHAPTER 246.

(S. B. 17.)

RELATING TO REGULATION OF MOVING PICTURE MACHINES

AN ACT Entitled, An Act to Amend Sections 9129, 9130 and 9131 of the South Dakota Revised Code of 1919, Relating to the Regulation of Moving Picture Machines.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 9129 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 9129. No moving Picture Machine using celluloid films, except portable and semi-portable moving picture machines which are enclosed in fire proof cases, and in which safety standard films are used and the film reels are enclosed in metal magazines and incandescent electric lamps furnish the light for showing the pictures, and which machines have been approved by the State Fire Marshal, shall be installed or used in any building to which the public is admitted, except as provided in this article, and no audience room in which exhibitions of moving pictures are given, or opera house or other buildings used for theatrical or operatic purposes shall be open to the public except in full compliance with the requirements of this article.

Section 2. That Section 9130 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 9130. The entire equipment, electrical devices, rheostat and picture machine in every moving picture show and theater showing moving pictures shall be inclosed in a room or booth large enough for the operator to walk freely on either side and back of the machine, and not less than seven feet in height and of one of the following constructions:

1. Brick, tile or concrete booth: If the room or booth is constructed of brick, tile or concrete, it shall have walls, floor, and ceiling or roof not less in thickness than eight inches, except that if reinforced concrete is used the thickness need be only four inches.

2. Cement plaster on expanded metal booth: Frame shall be made of suitable I beams, angle or tee iron. Expanded metal must have studs made by felds or be attached to substantial metal studs spaced at least every two feet. Floor shall be made of concrete at least four inches thick and properly supported. Grooves or binders for gravity doors for openings shall be securely fastened to metal studding. Cement plaster shall be at least two inches thick. Material composing the cement plaster shall be as follows:

Portland Cement	5 parts
Sand	12 parts
Lime paste	1 part

3. Asbestos wood booth: The booth shall be substantially constructed of asbestos lumber of the thickness of one-fourth inch on sides

and top and three-eighths inch on bottom, securely supported by angle from frame of not less than one inch by one-quarter inch, all cross joints to be securely covered by strips of iron outside and inside and securely riveted or bolted together.

4. Portable booth: Frames shall be made of at least one and one-half inch by one and one-half inch by one-fourth inch angle or tee iron. Intermediate uprights shall be spaced every four feet. The booth shall be covered with steel or galvanized sheet iron not less than number twenty United States gauge. The booth may be made in a folding type so constructed that when assembled it will be rigid and all joints tight, that flames may not pass through them. The base of the booth shall have a flange extension outward on all four sides, provided with a sufficient number of holes, through which booth may be fastened to the floor. Special means for ventilation need not be provided except that there shall be an opening for ventilation in the top of the booth, this opening to be at least ten inches in diameter and a metal sleeve at least eighteen inches in height, provided with ventilating cap, shall be attached thereto.

5. Openings: Entrance of main door to booth shall be of the standard corridor door construction for booths, of types 1 and 2; asbestos lumber for types 3 and 4. The main entrance door shall open outward and shall be provided with a substantial spring that shall keep it closed tightly, and there shall be not more than four other openings in the booth for each machine, one for observation by the operator and three for operating of machine. These openings shall not exceed twelve inches in either dimension and each shall be provided with a gravity door constructed of sheet metal or asbestos lumber not less than number fourteen United States gauge and when closed shall overlap the opening at least one inch on all sides and arrange to slide, without binding, in properly constructed grooves. These doors shall be held open normally by the use of a fine combustible cord fastened to a hundred and sixty degree Fahrenheit fusible link, the whole so arranged that the door may be easily released and closed by hand.

6. Ventilation: Near the center of the top of the booth shall be an opening at least ten inches in diameter for ventilation, with a pipe leading to the outer air. This pipe is to be connected to a chimney or provided with an exhaust fan, or shall itself be not less than fifteen feet in length, to provide suction from the booth.

7. Shelves: All shelves, furniture and fixtures within the booth shall be constructed of noncombustible material.

Provided, however, that portable and semi-portable moving picture machines which are inclosed in fire proof cases, and in which safety standard films are used and the film reels are inclosed in metal magazines and incandescent electric lamps furnish the light for showing pictures, and which machines have been approved by the State Fire Marshal, may be used without complying with the foregoing provisions of this section.

Section 3. That Section 9131 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 9131. The moving picture machines and equipment in any show and theater showing moving pictures shall be installed, constructed and operated in the following manner:

1. The moving picture machine and all electrical equipment shall be constructed and installed as required by the national electrical code.

2. Each machine, except portable and semi-portable moving picture machines which are inclosed in fire proof cases, and in which safety standard films are used and the film reels are inclosed in metal magazines

and incandescent electric lamps furnish the light for showing pictures, and which machines have been approved by the State Fire Marshal, must be securely fastened to the floor to prevent accidental overturning or moving.

3. No moving picture machine shall be operated other than by hand power. The handle or crank used in operating such machine shall be secured to the spindle or shaft so as to prevent its coming off; provided, that a motor driven machine, of a type expressly designed for driving by electric motor and approved by the Commissioner of Insurance, may be installed.

4. No film shall be exposed in the booth at any time other than the one in process of transfer to or from the machine, or from the upper to the lower magazine, or in the process of rewinding. A separate metal case, made without solder, shall be provided for each film, wherein the same shall be kept when it is not in the magazine or in process of rewinding. No material of combustible nature shall be stored within any booth except the films needed for one day's operation.

5. Arc lamp must be controlled by double pole switch and inclosed fuse cut out within easy reach of the operator.

6. Reinforced cord shall be used in all pendant lights and all lights shall be provided with approved wire lamp guards.

Section 4. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

Approved February 19, 1923.

Public Health

CHAPTER 247.

(S. B. 179)

RELATING TO COUNTY HOSPITALS

AN ACT Entitled, An Act to Amend Section 7694 of the South Dakota Revised Code of 1919, Amended by Chapter 282 of the Session Laws of 1919, Relating to the Operation of a County Hospital as a Tuberculosis Sanitarium.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There shall be added at the end of Section 7694 as amended by Chapter 282 of the Session Laws of 1919, an additional paragraph to be numbered (13).

(13) The Board of Trustees of any county hospital, either operating now or in the process of construction, or to be established in the future under the provisions of this chapter, is hereby authorized to operate said hospital as a tuberculosis sanitarium, if deemed advisable, or to provide as a department of said public hospital suitable accommodations and means for the care of persons afflicted from tuberculosis. The Board of Trustees may formulate such rules and regulations for the

government of such patients and the protection from infection of other patients and nurses, and attendants in such public hospital as they may deem necessary, and it shall be the duty of all persons in charge of or employed in such hospitals, or residents thereof, to faithfully obey and comply with any or all of such rules and regulations.

Approved March 6, 1923.

Public Officers

CHAPTER 248.

(S. B. 217)

RELATING TO REMOVAL FROM OFFICE OF STATE'S ATTORNEY, SHERIFF,
THEIR DEPUTIES AND POLICE

AN ACT Entitled, An Act to Amend Section 7011 of the South Dakota Revised Code of 1919 Relating to the Removal of Certain Officers by the Governor.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 7011 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 7011. The Governor shall have power, after notice and hearing, to remove from office any states attorney, sheriff, or police officer, and any deputy or assistant state's attorney and deputy sheriff who shall wilfully fail, neglect or refuse to perform any of the duties imposed upon him by or to enforce any of the provisions of Chapter 4, Part 22 of this title, relating to intoxication, or who shall wilfully fail, neglect or refuse to perform any duties imposed upon them by law, or who shall be guilty of intoxication or drunkenness, or who shall be guilty of the violation of any law or who shall assist or connive in the violation of any law or who shall be grossly incompetent to perform the duties of his office. Proceedings for the removal of any such officer may be commenced either by the Governor on his own motion or on written complaint of any citizen of the state, filed with the Governor. Written notice of the time and place fixed for the hearing of such complaint, together with a copy thereof, shall be personally served upon such officer at least ten days before such hearing. Any person who shall have been removed under the provisions of this section shall be ineligible to hold any public appointive or elective office or position of the state or any political subdivision thereof, during the unexpired part of the term of office to which such person was elected or appointed, and from which he has been removed. And it shall be unlawful for any officer or board to allow or pay any such person so removed, any salary for any public appointive or elective office or position to which he may be elected or appointed during the period for which he shall be disqualified to hold such office or position and any person or board who shall allow or pay any such salary contrary to the provisions of this act shall be liable to the state or political subdivision as the case may be, for the salary so paid or allowed.

Approved March 12, 1923.

Public Printing and Supplies

CHAPTER 249.

(S. B. 53.)

DESIGNATING CONTENTS OF LEGISLATIVE MANUAL

AN ACT Entitled, An Act to Amend Section 6924 of the South Dakota Revised Code of 1919, by Limiting the Contents of the Legislative Manual.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6924 of the South Dakota Revised Code of 1919 be amended to read as follows:

"Section 6924. **Governor's Message, Inaugural Address, Legislative Manual, Legislative Handbook.**" There shall be printed seven hundred copies of the governor's message and inaugural address, five hundred copies of each of which shall be bound as the commissioner may direct, to be delivered to the governor making the same, for distribution as he may desire, and two hundred copies of each of which shall be reserved unbound, to be included in the public documents. In addition thereto, each branch of the legislature may, by a vote of two-thirds of the members of each branch, order such additional copies of the governor's message and inaugural address as it may desire for its own distribution, to be bound as it may designate; provided, that in no case shall the state pay for composition more than twice for such inaugural address and governor's message. The commissioner shall designate the number, not to exceed three thousand, of legislative manuals and legislative handbooks to be printed and the style and binding thereof, and shall compile such books. The Legislative Manual shall contain the following data and no other: A statement of territorial and state officers and territorial and state legislatures; current official directory of the state government; current county officers; a list of South Dakota Post Offices; a compilation of appropriations for state departments since Statehood; the population of the State by Counties and Cities; a brief summary of election statistics since Statehood with the vote for Governor, United States Senators and members of Congress by counties for the last two general elections and the last primary election; a brief biographical statement of constitutional state officers and legislators with a reproduction of their photographs; Organic Act of Dakota Territory; Enabling Act of South Dakota; Constitution of South Dakota; Brief South Dakota Chronology; the last adopted party platforms; the county names; Directory of South Dakota newspapers; brief statement regarding the South Dakota institutions, with pictures, and a list of the Washington Representatives of Dakota Territory and South Dakota with their years and party affiliations, and an index.

Approved February 24, 1923.

Public Reports

CHAPTER 250.

(H. B. 158)

RELATING TO REPORTS OF STATE OFFICERS, BOARDS AND INSTITUTIONS

AN ACT Entitled, An Act to Amend Section 7067 of the South Dakota Revised Code of 1919, Relating to the Making of Reports of State Officers, Boards and Institutions to the Governor, and the Printing of the Same.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 7067 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 7067. Every State officer, board and institution required to make an annual or biennial report to the Governor, shall make the same in the most condensed form, giving only such information as is necessary to fully disclose the transactions and conduct of such officer, board or institution, during the period covered by such report, which period shall end on the 30th day of June preceding the filing of such report; except the report of the State Mine Inspector, and his report shall cover a period which ends on the 31st day of December preceding the filing of such report, and every state officer, board or institution making such reports shall, whenever it is necessary to report any correspondence, pleadings, opinions, or proceedings, omit all formal and perfunctory portions thereof, and give only the gist of such matter. Such reports may contain brief recommendations for necessary legislation.

Approved February 27, 1923.

Railroad Commission

CHAPTER 251.

(S. B. 127)

RELATING TO LEASE-HOLD SITES ON RAILROAD RIGHT OF WAY

AN ACT Entitled, An Act to Fix the Reasonable Rental of Lease-hold Sites Belonging to Railroad Companies, Information Concerning Sites to be Furnished Tax Commission, and for the Repeal of Section 9773, Revised Code, 1919.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. It shall be the duty of each and every railroad company operating in this state, on or before the first day of June of each year, to furnish the State Tax Commission a statement in addition to that required by Section 6597, Revised Code, 1919, which statement shall describe each site occupied by any public warehouse, retail coal dealer lumber dealer, or other occupant, upon the right-of-way, depot grounds or warehouse lots of said railroad company. Such statement shall contain the name of the carrier, name of each individual lessee of such site, size of leased site and value thereof.

Section 2. The Tax Commission of the State of South Dakota is hereby required, on or before the first day of July of each year, to make a list of all public warehouse, retail coal dealers, lumber dealers, or other occupant of sites upon the right-of-way, depot grounds, or warehouse lots of any railroad company in this state, which list so certified shall show the name of the railroad company, the city or town where such sites are located, the description and area of each individual site, also the value thereof as returned by the railroad company upon whose right-of-way such site is located.

Section 3. Whenever any railroad company operating in this state shall lease any site upon its right-of-way, depot grounds, or warehouse lots to any public warehouse, retail lumber or coal dealer, or other applicant the proposed lease offered by such railroad company shall stipulate a reasonable annual rental for the use and occupation of the grounds leased, which rental shall, as nearly as can be, amount to six per cent upon the value of the property embraced in said proposed lease.

Section 4. Whenever complaint is made to the Board of Railroad Commissioners by the owner of any public warehouse or other occupant of a site upon the right-of-way of any railroad company in this state to the effect that the proposed lease offered by such railroad company is excessive and unreasonable, the Board of Railroad Commissioners may determine and order said railroad company to establish as reasonable annual rental for the use and occupation of the premises named in said lease, an amount which shall represent as nearly as can be, six per cent of the value of the lands embraced in said proposed lease. The Board of Railroad Commissioners in fixing such reasonable rental shall deter-

mine same upon the value as shown in the certified list of lease sites furnished said Board by the State Tax Commission. It shall be unnecessary for the Board of Railroad Commissioners in fixing such reasonable rental to make any further investigation or conduct any hearing to determine such reasonable rental.

Section 5. The provisions of Section 9773 of the Revised Code of South Dakota, 1919, are hereby repealed.

Approved March 12, 1923.

Railroad Commissioners

CHAPTER 252.

(H. B. 93.)

RELATING TO POLES AND WIRES ON RAILROAD RIGHT OF WAY

AN ACT Entitled, An Act to Amend Section 9558 of the Revised Code of 1919, Relating to Regulations by the Board of Railroad Commissioners for Telephone and Telegraph Wires.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 9558 of the Revised Code of 1919, of the State of South Dakota, be amended to read as follows:

Section 9558. **Regulations for Telephone, Telegraph and Electric Wires and Poles.** The board of railroad commissioners shall have authority, and it shall be its duty to make rules and regulations for the setting of poles on railroad right-of-way, stringing or suspending of any telephone, telegraph, electric or other wire over any track of any railroad company, except street railways, doing business in this state. That where a pole or poles are to be set on any railroad right-of-way outside of any highway crossing, the board of railroad commissioners shall fix and determine the rental to be paid for the setting of such pole or poles on such right-of-way.

Approved March 2, 1923.

Register of Deeds

CHAPTER 253.

(S. B. 224)

RELATING TO THE RECORDING OF CERTAIN INSTRUMENTS

AN ACT Entitled, An Act to Amend Section 569 of the Revised Code of 1919, Relating to the Record of Instruments Affecting Real Property, and Providing for the Admission of the Record Thereof in Evidence.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 569 of the South Dakota Revised Code of 1919 as amended by Chapter 352 of the 1921 Session Laws is amended to read as follows:

Section 569. **Judgments, Letters Patent and Certificates of Discharge May Be Recorded, Evidence Admissible.** Any instrument affecting the title to or possession of real property may be recorded as by law provided. Judgments affecting the title to or possession of real property, authenticated by the certificate of the clerk of court in which such judgments were rendered, may be recorded without acknowledgment or further proof. Letters patent from the United States, and final certificates from the United States land offices, patents issued by the State of South Dakota, and contracts for the sale of lands of the State of South Dakota, may be recorded without acknowledgment or further proof. Copies of such final certificates, letters patent, duly certified by the commissioner of the general land office, copies of such patents and contracts of sale of the State of South Dakota, duly certified by the Commissioner of School and Public Lands, may be recorded without acknowledgment or further proof. Certificates of discharge of soldiers, sailors, marines and all other persons who have served in the armies or navies of the United States or of any of its allies in any war in which the United States has engaged, including the World's War, or copies of such discharge papers certified or authenticated in the manner prescribed by the statutes of the United States, or the regulations of the military department of the Federal Government, may be recorded without acknowledgment or further proof; and all such discharge papers which may have been recorded in any county in this State prior to the date upon which this act became effective shall be deemed to have been duly and lawfully recorded and to impart notice of the contents thereof from the date of such recording. Copies of the records of such Letters Patent, Final Certificates, Patents, Contracts of Sale of the State of South Dakota and Certificates of Discharge, and of the record of such duly certified copies of such letters patent, patents, contracts of sale of real property and certificates of discharge, shall, when duly certified by the custodian of such records, be admissible in evidence without further proof.

Approved March 12, 1923.

School and Public Lands

CHAPTER 254.

(S. B. 268)

RELATING TO IMPROVEMENTS ON PUBLIC LANDS

AN ACT Entitled, An Act to Amend Section 5651 of the South Dakota Revised Code of 1919, Relating to Improvements on School and Public Lands.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 5651 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

"Section 5651. **Improvements—Transfer.**" When improvements are shown to be located on any school or endowment lands which have been under lease, and which have been offered for re-leasing or sale, and a person other than the owner of the improvements thereon is the highest bidder therefor, such bidder, before a lease shall issue, shall deposit with the county auditor his receipt showing payment of the amount of rental due, and in addition thereto a receipt showing that he has deposited with the county treasurer an amount equal to the appraised value of such improvements, as shown by the board of appraisal hereinbefore provided, or an amount agreed upon between such successful bidder and the owner of such improvements, or proof that the owner of such improvements elects to remove all of them, if any there be thereon; provided, that if the owner of such improvements elects not to remove them and he cannot agree with the successful bidder on the value of such improvements, he shall within five days from the date on which the land is offered for re-leasing or sale make application in writing to the county auditor, asking for the appraisal of such improvements as herein elsewhere provided. Such owner shall be required to make a deposit sufficient to cover the cost of appraisal as determined by the county auditor, the board of appraisal to be paid out of such deposit by the county auditor; provided, that in case such improvements are appraised, the owner of such improvements shall accept or reject such appraisal by written notice to the county auditor within five days from date of appraisal, or such appraisal shall be deemed rejected and a lease shall issue. Provided, further that all lessees who shall hereafter make any improvements as hereinbefore provided on school or endowment lands, and who does not wish to re-lease the same, shall dispose of or remove such improvements as are capable of removal without damage to the land, at any time within sixty days from the date on which such land is offered for re-leasing or sale, after which period all improvements that have not been removed or disposed of shall become the property of the State, unless such period be extended by the Commissioner of School and Public Lands for good cause shown.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 255.

(S. B. 145.)

RELATING TO SALE OF IMPROVEMENTS

AN ACT Entitled, An Act Authorizing the Commissioner of School and Public Lands to Sell and Dispose of Improvements Situated Upon School and Public Lands, and Providing the Manner of Sale.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Whenever the right, title and interest in improvements upon school and public lands shall have vested in the State, the Commissioner of School and Public Lands is authorized, when ever in his judgment it shall be for the best interest of the State, to sell and dispose of such improvements for cash at public auction to the highest bidder, at the court house of the county in which the improvements are situated.

When improvements are designated to be offered for sale, there shall be an itemized list of same made by the Commissioner of School and Public Lands and presented to the Board of Appraisal provided for in Section 5655, Code of 1919, who shall make an itemized appraisal of same. No improvements shall be sold for less than the appraised value. The Commissioner of School and Public Lands may disapprove any sale if it is not to the best interest of the State.

Section 2. Notice of sale, stating the time, place and terms of sale and description of property to be sold, shall be given by publishing the same for two successive weeks, at least once each week, in a newspaper of the county in which the improvements intended to be sold are situated.

Approved March 2, 1923.

CHAPTER 256.

(H. B. 269.)

RELATING TO LEASES

AN ACT Entitled, An Act to Amend Sections 5637 and 5639 of Chapter 2 of the South Dakota Revised Code of 1919, Relating to the Leasing of School and Public Lands and the Period of Leasing, Also to the Minimum Leasing Rate.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 5637 of Chapter 2 of the South Dakota Revised Code of 1919 be and the same hereby is amended to read as follows:

Section 5637. **Lease Regulations.** Whenever lands situated in any county shall be designated as provided in the preceding sections, such lands shall be advertised for lease at public auction by the publication, once each week for a least nine consecutive weeks, in a newspaper of general circulation published nearest such lands, of a notice stating the time and place at which the leasing of such lands will begin. A notice of such leasing shall also be published once each week for at least sixty days in a newspaper of general circulation published at the county seat

of the county in which the lands are located. It shall be optional with the board of school and public lands to accept a bid for a lease covering a period of one year or more, not exceeding five years, and in case no bids or proposals are made for any term, under the publication herein required, or in case of a failure from any cause to complete the leasing of any tract offered, it shall within six months thereafter be lawful to lease such lands under the provisions of this article, without a readvertisement.

Section 2. That Section 5639 of Chapter 2 of the South Dakota Revised Code of 1919 be and the same hereby is amended to read as follows:

Section 5639. **Minimum Leasing Rate.** The board of school and public lands shall fix the minimum rate at which common school and endowment lands may be leased in each county; provided, not more than three hundred and twenty acres shall be leased for agricultural purposes to any one person, firm or corporation.

Section 3. Whereas, this act is necessary for the immediate support of the state government and its existing institutions, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 257.

(S. B. 146)

RELATING TO LEASING

AN ACT Entitled, An Act to Amend Section 5642 of the Revised Code of 1919, Relating to the Leasing of School and Public Lands.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 5642 of the Revised Code of 1919 be and the same is hereby amended to read as follows:

"Section 5642. **Adjournment—Payments.**" The auction shall continue from day to day until all tracts of lands advertised for lease shall have been offered. The county auditor, or his representative, may for good cause, adjourn the auction for a period of not more than three days. Whenever the highest offer for any tract of land is satisfactory and the tract is reserved for the bidder, such bidder must as once deposit with the county treasurer the amount specified as the annual rental for the tract, and take the treasurer's receipt therefor, a copy of which shall be retained by the treasurer in his office. The bidder shall exhibit such receipt to the county auditor, who shall thereupon prepare a lease of such tract, in duplicate, according to a form which the Board of School and Public Lands shall prescribe, and shall procure the signature of the lessee thereto. Upon procuring such signature the county auditor shall transmit to the Commissioner the lease so executed, together with the appraisement of the improvements, and a complete report in reference thereto. If the Commissioner approves such lease and appraisement, he shall submit the same to the Governor for his approval. Should the Governor approve the proposed lease he shall certify such approval upon the lease, and the Commissioner shall thereupon execute the same in

duplicate on behalf of the State and file a copy in his office and transmit the other to the county auditor, who shall deliver same to the lessee, and notify the county treasurer of the execution and approval of the lease. The county treasurer shall then pay to the State Treasurer the sum deposited by the lessee. Should the Commissioner or the Governor disapprove the proposed lease the county treasurer shall thereupon return to the bidder the sum deposited in full, taking such bidder's receipt therefor on the back of the copy of the duplicate receipt issued to such bidder.

Approved February 27, 1923.

CHAPTER 258.

(S. B. 269)

RELATING TO RAILROAD RIGHT OF WAY

AN ACT Entitled, An Act To Amend Section 9625 of the Revised Code of 1919, Relating to Execution and Delivery of Deeds to Public Lands to Railroad Corporations.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 9625 of the Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 9625. **Deed by Governor.** As soon as such railroad shall be constructed over such lands, so selected, and a station erected thereon, on proof of such fact to the satisfaction of the Governor, and upon paying the full value of the lands so taken for station purposes and all grounds herein contemplated, such value to be ascertained and payment made in the manner hereinafter provided, the Governor shall convey by deed of right of way, to the corporation constructing such railroad, the right to hold and use such lands for such purposes only as are herein contemplated, which deed shall be executed in the name of the State by the Governor, under the Great Seal of the State, and attested by the Commissioner of School and Public Lands, under the seal of his office, and the title vested thereby to the lands so selected for right of way and station purposes shall relate back to the date of the filing of such map with the Commissioner of School and Public Lands, and no subsequent grant from the State to any other person or corporation of any tract of land, including such right of way and selection for depot grounds so platted, and the plat thereof filed as aforesaid, though not excepted in such grant, shall divest such railroad corporation of its rights in the same under this article; provided, that nothing in this article shall be so construed as to prevent any other person or corporation from obtaining the right to enter upon and cross such lands and to maintain his or its rights of way across or along such lands, so granted, as provided by law.

Approved March 6, 1923.

CHAPTER 259.

(H. B. 267)

RELATING TO SALE OF TIMBER

AN ACT Entitled, An Act to Amend Sections 5670, 5671, 5672, 5674 of the Revised Code of 1919, Relating to Sale of Timber on School and Public Lands.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 5670 of the Revised Code of 1919 be and hereby is amended to read as follows:

Section 5670. Commissioner Authorized to Sell. The commissioner is authorized to sell all matured pine and oak timber grown or growing upon any school lands now owned or which may hereafter be acquired by the State, when in his judgment it is conducive to the best interests of the State to sell such timber, provided that such sale shall be made by direction of the board of school and public lands, under such rules and regulations as it may establish to properly carry into effect the provisions of this article, and not inconsistent herewith.

Section 2. That Section 5671 of the Revised Code of 1919 be and hereby is amended to read as follows:

Section 5671. Cutting Area. Before any tract of timber is offered for sale under the provisions of this article, the commissioner shall clearly outline the cutting area of such tract, such outline to be determined by legal subdivisions, and the amount of timber within such cutting area shall be estimated, and each living tree to be cut or sold shall be scaled and stamped; provided, that sufficient trees shall be left growing for reseeded purposes, and provided, further, no thrifty growing tree shall be stamped to be cut or sold that calipers less than eleven inches, measured breast high.

Section 3. That Section 5672 of the Revised Code of 1919 be and hereby is amended to read as follows:

Section 5672. Minimum Price. When sales of timber have been decided upon under the provisions of the two preceding sections, the board of school and public lands shall fix the minimum rate per thousand feet board measure at which such timber may be sold. Not more than twenty million feet shall be sold during any calendar year, and when such amount has been so sold not more than one million feet shall be sold each year during the next four years. Provided, that not more than twenty-four million feet in the aggregate shall be sold in any five year period.

Section 4. That Section 5674 of the Revised Code of 1919 be and hereby is amended to read as follows:

Section 5674. Notice of Sale. When sales of timber are decided upon under the provisions of this article, the commissioner shall publish notice thereof in newspapers in the county or vicinity in which the land is situated, once each week for five consecutive weeks, such notice to give the approximate boundaries of the logging units or cutting area, the estimated amount of timber, the appraised price thereof, the time when such bids must be filed with the commissioner and the time when such bids will be opened; provided, sales of timber aggregating less than one hundred dollars may be made without such advertising.

Approved March 7, 1923.

CHAPTER 260.

(S. B. 41.)

RELATING TO U. S. SURVEYOR GENERAL'S RECORDS

AN ACT Entitled, An Act Authorizing the Commissioner of School and Public Lands to Receive and Safely Keep the Records of the United States Surveyor General for the State of South Dakota.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. The Commissioner of School and Public Lands shall receive and safely keep in his office as public records of this State, all field notes, maps, plats of surveys, mineral survey notes, homestead survey notes, records or other papers relating to the public survey of this State whenever the same shall be turned over to the State in pursuance of law, the United States at all times to have free access thereto for the purpose of taking extracts therefrom and making copies thereof.

Section 2. Whereas such records have been delivered to the State of South Dakota and no provision has been made for their receipt and custody and whereas this act is necessary for the support of the state government and its existing institutions, an emergency is hereby declared to exist and this act shall be in force and effect from and after its passage and approval.

Approved February 21, 1923.

CHAPTER 261.

(S. B. 67.)

SURRENDERING 160 ACRES TO UNITED STATES

AN ACT Entitled, An Act Surrendering to the United States All Claims on the Part of the State to Certain Lands in the Former Pine Ridge Reservation.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That all claims on the part of the State of South Dakota to the following described lands situated in Bennett County, South Dakota, be and they are hereby surrendered to the United States, to wit:

The Northeast quarter of section sixteen (16) in Township thirty-eight (38) North, of Range forty (40) West 6th P. M.

Section 2. The Governor of this state and the commissioner of School and Public Lands are hereby authorized and directed to execute and deliver to the United States a quit claim deed to said lands.

Section 3. This act is passed pursuant to the Act of Congress of March 1, 1921, Chapter 91, 41 Statute 1193, Entitled,

AN ACT to authorize a lieu selection by the State of South Dakota for one hundred and sixty acres on Pine Ridge Indian Reservation, and for other purposes.

for the reason that said lands did not in reality become school lands upon the opening of the former Pine Ridge Reservation although they apparently did. Upon the execution of said deed the Commissioner of School

and Public Lands is directed to make the lieu selection authorized by said Act of Congress.

Section 4. The lands herein described shall hereafter, and until otherwise provided by Congress, be a part of the present Pine Ridge Reservation and subject to the laws enacted for or applicable to the said Reservation.

Approved February 8, 1923.

Secretary of State

CHAPTER 262.

(S. B. 254.)

RELATING TO THE FILING OF DOCUMENTS

AN ACT Entitled, An Act to Amend Subdivision 4 of Section 5332 of the South Dakota Revised Code of 1919 as Amended by Chapter 359 of the Session Laws of 1921.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Subdivision 4 of Section 5332 of the South Dakota Revised Code of 1919, as amended by Chapter 359 of the Session Laws of 1921, be amended to read as follows:

4. To receive, file and keep on file any document, official oath, official bond, articles of incorporation and amendments thereof, and letters of acceptance which the law requires to be filed in his office. All deeds, abstracts of title and other title papers pertaining to lands owned by the state or by any department or institution of the state, except those under the control of the Commissioner of School and Public Lands, Rural Credit Board and Land Settlement Board shall be filed and preserved in the office of the Secretary of State.

Approved March 8, 1923.

Securities Commission

CHAPTER 263.

(H. B. 161)

RELATING TO LICENSES TO INVESTMENT COMPANIES

AN ACT Entitled, An Act to Amend Section 10138 of the South Dakota Revised Code of 1919, as Amended by Chapter 361 of the South Dakota Session Laws of 1921, Relating to the State Securities Commission, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 10138 of the South Dakota Revised Code of 1919, as amended by Chapter 361 of the South Dakota Session Laws of 1921 be and the same is hereby amended to read as follows:

Section 10138. **Agents Fees.** In addition to the filing and examination fees provided for in this Chapter to be paid by investment companies and dealers, there shall be charged and collected by the Securities Commission a fee of three dollars (\$3.00) for the registration and authorization of each agent of any such investment company or dealer, which fee and registration shall entitle each agent to act as such until the first day of July following, unless such authority be sooner revoked by the Commission or the dealer or investment company. Each such agent, except those agents of domestic investment companies which have been organized for the purpose of developing the natural resources of this state, or for the establishment of local business enterprises, when all officers and at least two-thirds of the Directors and all agents appointed within the state of such investment companies are bona-fide citizens of this state, who shall give such bond in such sum as may be required by the State Securities Commission conditioned for the faithful performance and payment of obligations of such agent; and provided further, that a new bond shall be furnished each year while said agency is in force, and all claims for damages shall be made under said bond within one year from the expiration thereof, shall file in the office of the Secretary of State, a surety bond to be approved by the Securities Commission, and in the penal sum of ten thousand dollars (\$10,000.00) conditioned for the faithful performance and payment of the obligations of such agent and for the payment of all claims of damages for which he may become liable through fraud, deceit, or misrepresentation in the course of his agency. If such agent shall be a non-resident of the State, he shall, at the time he registers with the Commission, file his written appointment of the Superintendent of Banks of this State as his agent, upon whom process or pleadings may be served in this State, in like manner and with like effect as in the case of a dealer. In granting such agent's license the Commissioner may impose such restrictions and make such regulations as it may deem advisable, and may require from any agent full and accurate reports of all his dealings and may require him to promptly furnish to the Commission accurate copies of all subscriptions or other contracts procured by him. Each of such agents shall make a new registration on the first

day of July of each year for the renewal of his agency, and the Commission shall charge and collect for such renewal registration a fee of three dollars (\$3.00). All fees and charges collected by the Commission shall be covered into the State Treasury and credited to the Securities Commission Fund, which is hereby appropriated to the use of the Commission toward paying the expenses of enforcing this Chapter. The expenses of the Commission, shall, however, be limited to the money received by it in fees. All expenses actually and necessarily incurred by the Commission for salaries and expenses in carrying out the provisions of this Chapter shall be paid by the State Treasurer upon warrants drawn upon the Securities Commission Fund by the State Auditor, upon duly itemized and approved vouchers.

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

Sinking Funds

CHAPTER 264.

(S. B. 118)

RELATING TO INVESTMENT OF SINKING FUNDS

AN ACT Entitled, An Act to Amend Section 6999 of the Revised Code of South Dakota for 1919, Relating to the Investment of Sinking Fund by Municipal and Public Corporations.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6999 of the Revised Code of South Dakota for 1919 be and it is hereby amended to read as follows:

"Section 6999. **Investment.**" Every city, incorporated town, county, civil township, school district, or other municipal or public corporation maintaining a sinking fund for the payment of outstanding bonds, shall keep the accumulations in such sinking fund invested in valid interest-bearing securities or deposited with lawful depositories and the interest accruing on such investment of the sinking fund shall be credited to such fund; it being the intention of this section to authorize such municipal and public corporations to invest such funds in other bonds or registered warrants of such municipal or public corporations when the bonds for which such sinking fund has been created do not fall due for a period of ten years or more thereafter; provided however that not more than twenty-five per cent of said sinking fund shall be invested in registered warrants of said municipal or public corporation at any one time. Provided further that where such sinking fund is invested in other bonds of such corporation, there shall be a levy of a tax upon the taxable property of such municipal or public corporation of sufficient amount to pay the interest and also the principal thereof when due, and such tax when collected shall be returned to the sinking fund for that purpose; provided,

further, that in carrying out the provisions of this section, all transactions shall be by resolutions of the governing board, which resolutions shall be regularly filed and recorded with the auditor or clerk of such municipal or public corporation as a public record.

Approved March 12, 1923.

Soldiers' Compensation Act

CHAPTER 265.

(S. B. 260.)

RELATING TO ALLOWANCE OF CLAIMS

AN ACT Entitled, An Act to Amend Section 13, Chapter 363 of the South Dakota Session Laws of 1921, Relating to Soldiers' Compensation, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 13, Chapter 363 of the South Dakota Session Laws of 1921 be and the same is hereby amended to read as follows:

Section 13. The proceeds of such bonds shall be used and expended for the purpose of compensating, as hereinafter provided, honorably discharged soldiers, sailors, marines and army nurses who have served with the Armed Forces of the United States, in the World War, or other wars of the United States, including former residents who have served in Allied Armies, against the Central Powers in the World War, and who have been honorably discharged and repatriated; and shall remain a specific fund for that purpose until October 1st, 1923, at which time the balance remaining in such fund and unclaimed shall revert to the "Soldiers' Compensation Interest and Sinking Fund" and be used for the purpose for which that fund is authorized to be used under the provisions of this act. No claims for compensation under this act shall be received or filed after July 1st, 1923, but claims received and filed on or before July 1st, 1923, may be perfected and allowed up to September 30th, 1923.

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing public institutions, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 266.

(S. B. 3)

RELATING TO DECEASED BENEFICIARIES

AN ACT Entitled, An Act to Amend Chapter 363 of the Session Laws of 1921, Relating to Soldier's Compensation and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 17 of Chapter 363 of the Session Laws of 1921 be amended to read as follows:

Section 17. In the case of the decease of any person who if alive would be entitled to the benefits under this act, the aforesaid sum shall be paid to his dependent wife, children, mother father, sisters or brothers, if there be any such dependents, provided such dependents are citizens and residents of the United States and were such citizens and residents at the time of entry into the military or naval service of such deceased person, or became such citizens and residents thereafter and before the death of such deceased person; and provided further, that if there be more than one such dependent, payments shall be made in such proportions as the Soldier's Compensation Board shall determine giving precedence so far as practicable in the order above named. No right of payment under the act shall be subject to the claims of creditors, capable of assignment, regarded as assets legal or equitable of the estate of the deceased, or made the basis for the administration thereof.

Section 2. Whereas this act is necessary for the immediate preservation of the public peace and safety and for the support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

Soldiers' Compensation Board

CHAPTER 267.

(S. B. 258.)

TRANSFER OF RECORDS AND FURNITURE

AN ACT Entitled, An Act Providing for the Disposition of All Books, Records, Files, Furniture and Fixtures of the South Dakota Soldiers' Compensation Board at the Conclusion of Their Work, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. All books, records, files, furniture and fixtures of the South Dakota Soldiers' Compensation Board shall be transferred to the Adjutant General's Department of the State of South Dakota, by said Board, at the conclusion of their work; except, that such books, records,

files and the cases in which they are contained, shall be placed in the custody of the Department of History of the State of South Dakota until such time as the Adjutant General's Department shall be located at the state capital.

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing public institutions, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 2, 1923.

CHAPTER 268.

(H. B. 56.)

AMENDING CHAPTER 363, LAWS, 1921

AN ACT Entitled, An Act to Amend Section 1, 2, 3 and 4, Chapter 363, of the Session Laws of 1921 Relating to Soldiers' Compensation, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Sections 1, 2, 3 and 4, Chapter 363, of the Session Laws of 1921, be amended so as to read as follows:

Section 1. There is hereby created a Soldiers' Compensation Board to consist of the Governor, who shall be ex-officio Chairman; the State Treasurer, who shall be ex-officio Treasurer of the Board; and the Attorney General, who shall be the Executive Officer of the Board.

Section 2. No additional compensation shall be made to members of the Board by reason of their membership upon the Soldiers' Compensation Board.

Section 3. The Board may employ assistants, clerks and employes, whose compensation shall be fixed by the Board, and in no instance shall such compensation exceed the sum of \$150.00 monthly.

Section 4. The Board shall make such rules and regulations as it may deem necessary and proper to carry this Act into full force and effect. The decision of the Board upon all claims submitted shall be considered final.

Section 2. Whereas, this act is necessary for the immediate preservation of the public peace and safety and for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1923.

Soldiers' Home

CHAPTER 269.

(S. B. 213)

RELATING TO SALARIES

AN ACT Entitled, An Act to Amend Section 9954 of the South Dakota Revised Code of 1919, Relating to the Salaries of the Superintendent and Other Officers and Employees of the State Soldiers' Home.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 9954 of the South Dakota Revised Code of 1919 be, and the same is, hereby amended to read as follows:

Section 9954. **Salaries of Superintendent, Officers and Employees.** The superintendent of such home shall receive a salary to be fixed by the board of managers of the State Soldiers' Home. He shall reside at the home, and under the direction of the board of managers shall have charge of the local management and supervision of the institution. He shall appoint, subject to the approval of such board, such subordinate employees as are necessary for the proper conduct of the home. All subordinate employees appointed by such superintendent shall receive such compensation as such board shall fix, and shall be subject to removal by the superintendent for inefficiency or misconduct. Such superintendent shall recommend to such board of managers such measures as he may deem necessary for the government of the home.

Approved March 6, 1923.

CHAPTER 270.

(H. B. 21.)

RELATING TO QUALIFICATIONS FOR ADMISSION

AN ACT Entitled, An Act to Amend Section 9955 of the South Dakota Revised Code of 1919, as Amended by Section 1 of Chapter 364, Session Laws of 1921, Relating to Admission to the South Dakota Soldiers' Home.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 9955 of the South Dakota Revised Code of 1919, as amended by Section 1 of Chapter 364 of the Laws of 1921, be and the same is hereby amended to read as follows:

Section 9955. **Admission—Eligibility.** 1. Any veteran of the Civil War, Mexican War, Spanish-American War, Philippine Insurrection or the World War, who has an honorable discharge and who has been a resident of this State for a period of three years next preceding the date of the application, who is incapacitated from earning a livelihood and who

has no income in excess of six hundred dollars (\$600.00) per annum, shall be eligible to admission to such home.

2. The wife of any veteran of the Civil War, the Spanish-American War, or the Philippine Insurrection, who is eligible to become a member of the home, may be admitted with her husband; Provided that such wife shall have attained the age of sixty years, and shall have been married to a veteran of any of the above named wars, prior to the year 1905. She shall be subject to the same House rules and rules as to furlough and discharge as her husband.

3. The widow of any veteran of the Civil War, the Spanish-American War or the Philippine Insurrection may be admitted to membership in the Home, upon the following conditions: She shall have attained the age of sixty (60) years; she must have married such veteran prior to the year 1905 or be the recipient of a pension from the United States Bureau of Pensions due to her widowhood of such veteran, and must have been a resident of this State for the period of three years next preceding the date of the application, and shall not have sufficient means or income to support herself; that she shall be subject to the same House rules and rules as to furlough, suspension and discharge as the veterans of the Home.

Approved February 10, 1923.

Soldiers and Sailors

CHAPTER 271.

(H. B. 281)

RELATING TO MEMORIAL FUND

AN ACT Entitled, An Act Amending Section 2 of Chapter 41 of the Special Session Laws of 1920, Designating a Custodian and Appropriating of All Moneys Received in Aid of Soldiers' and Sailors' Memorial, and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 2 of Chapter 41 of the Special Session Laws of 1920 is hereby amended to read as follows:

Section 2. County warrants for the sums so appropriated shall be issued in the manner provided by law for the issue of county warrants, and shall be transmitted by the county auditors of the respective counties to the State Treasurer.

All moneys received under the provisions of Chapter 323 of the Laws of 1919 shall be paid over to the State Treasurer of the State of South Dakota, whose duty it shall be to deposit the same in a special fund known as the Soldiers' and Sailors' Memorial Fund, and shall invest all of said moneys on time deposits at the highest rate of interest obtainable. All interest so collected shall be credited to the Soldiers' and Sailors' Memorial Fund.

Section 3. That any bond given to the State as a depository for public funds or any bond given by the State Treasurer shall be held to include the funds received or deposited under this act.

Section 4. All such money is hereby appropriated for the construction of such Soldiers' and Sailors' Memorial as provided by Chapter 323 of the Session Laws of 1919 and shall be paid upon vouchers approved by the Governor.

Section 5. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 272.

(S. B. 94.)

RELATING TO EXPENSES OF BURIAL

AN ACT Entitled, An Act to Amend Section 9963 of the South Dakota Revised Code of 1919 as Amended by Chapter 83 of the Laws of the Special Session of 1920, Relating to Expenses of Burial of Deceased, Honorably Discharged United States Soldiers, Sailors, Marines or Aviators or the Wife or Widow of any Honorably Discharged Soldier, Sailor or Marine of the Civil War, the Spanish-American War or the Philippine Insurrection and Declaring an Emergency.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 9963 of the South Dakota Revised Code of 1919, as amended by Chapter 83 of the Laws of the Special Session of 1920, be and the same is hereby amended to read as follows:

Section 9963. Any honorably discharged United States Soldier, sailor, marine or aviator, or the wife or widow of any honorably discharged sailor, marine or soldier of the Civil War, Spanish-American War or Philippine Insurrection, who shall hereafter die within this State and whose estate shall not be sufficient or whose relatives and friends are unable or unwilling to defray the charges of his or her funeral, shall be buried at the expense of this State, providing that such relatives or friends of the deceased persons can furnish affidavit acceptance to the County Judge that the estate of such decedent is not sufficient to defray said funeral expenses, and providing further that such funeral expenses, including cost of burial lot, shall not in any case exceed the sum of one hundred dollars.

Section 2. Whereas, this Act is necessary for the immediate support of the State Government and its existing institutions, an emergency is hereby declared to exist and this Act shall be in force and effect from and after its passage and approval.

Approved February 19, 1923.

South Dakota Land Settlement Act

CHAPTER 273.

(S. B. 277)

AMENDING LAND SETTLEMENT ACT

AN ACT Entitled, An Act to Amend Section 17 of chapter 315 of the Session Laws of 1919 as Amended by Section 4 of Chapter 366 of the Session Laws of 1921, Relating to the South Dakota Land Settlement Act.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 17, Chapter 315, Session Laws of 1919 as amended by Section 4, Chapter 366, Session Laws of 1921, be and the same is hereby amended to read as follows:

Section 17. No money shall be loaned nor property purchased under the provisions of this act after July 1, 1925.

Approved March 12, 1923.

State Athletic Commission

CHAPTER 274.

(S. B. 144)

REGULATING BOXING, SPARRING AND WRESTLING MATCHES

AN ACT Entitled, An Act Establishing a State Athletic Commission and Regulating Boxing and Sparring in the State of South Dakota.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. There shall hereafter be a State Athletic Commission appointed in the manner following:

Within thirty days after this act takes effect the Governor shall appoint one member from each of the three congressional districts in this State, each to serve one, two and three years respectively, unless sooner removed at the pleasure of the Governor. The member from the first Congressional District shall be appointed for three years, the member from the second Congressional District shall be appointed for two years, and the member from the third Congressional District shall be appointed for one year. Each member shall thereafter be appointed for three years. The persons who are appointed as members shall be citizens of

this state. The three thus appointed shall constitute such Athletic Commission and as their respective terms expire persons having the same qualifications shall be appointed in like manner as above set out for a term of three years, unless sooner removed at the pleasure of the Governor. The members of the Commission shall, at their first meeting after the appointment elect one of their number chairman of the Commission, shall adopt a seal for the Commission and may make such rules for the administration of their office, not inconsistent herewith, as they may deem expedient, and they may hereafter amend or abrogate such rules. Two of the members of the Commission shall constitute a quorum to do business; and the concurrence of at least two commissioners shall be necessary to render a choice or decision by the Commission.

Section 2. The Commission shall appoint and at pleasure remove a secretary to the Commission, whose duty it shall be to keep a full and true record of all its proceedings, preserve at its general office all its books, documents and papers, prepare for service such notices and other papers as may be required of him by the Commission and to perform such other duties as the Commission may prescribe; and he may under the direction of the Commission, issue subpoenas for the attendance of witnesses before the Commission with the same effect as if they were issued in an action in the circuit court and may, under the direction of the Commission, administer oaths in all matters pertaining to the duties of his office or connected with the administration of the affairs of the Commission. Disobedience of such a subpoena and false swearing before such secretary shall be attended by the same consequences and be subject to the same penalties as if such disobedience or false swearing occurred in an action in the circuit court. The Commission shall biennially make to the Governor a full report of its proceedings for the year ending with the first day of the preceding December and may submit, with such report, such recommendations pertaining to its affairs as it shall seem desirable.

Section 3. The Commission shall have and is hereby vested with the sole direction, management and control of and jurisdiction over all boxing and sparring matches and exhibitions to be conducted, held or given within the state pursuant to its authority and in accordance with the provisions of this Act. The Commission may in its discretion issue, and at its pleasure revoke a license to conduct, hold or give boxing and sparring matches and exhibitions to any club, corporation or association within the State. Every license shall be subject to such rules and regulations and amendments thereof as the Commission may prescribe. Every application for a license as herein provided for shall be in writing and shall be addressed to the Commission and shall be verified by some officer of the club, corporation, fraternal society or association on whose behalf the application may be made. It shall contain a recital of such facts as under the provisions hereof will show the applicant entitled to receive a license and in addition thereto such other facts and recitals as the Commission may by rule require to be shown. The Commission at its discretion may issue or revoke a license to hold or conduct such exhibitions or contests to any incorporated club, fraternal order or association; and also said Commission shall have the power to draw up such rules and regulations as they may from time to time find necessary for the proper staging of such exhibitions or contests. No license shall be issued to non-residents and no license shall be issued to any club, corporation, fraternal society or association not in existence in this state on January 1, 1923. No boxer weighing less than 140 pounds shall be permitted to contest against an opponent weighing more than 10 pounds more than himself.

Section 4. All buildings or structures used, or intended to be used, for the purpose of this Act must be inclosed and shall not be connected with any door or passage ways with any other building. No boxing contest shall be permitted on Sunday, nor shall any wagering be permitted upon the results of matches or exhibitions. All buildings or structures shall be properly ventilated and provided with fire exits and fire escapes, if there need be and in all manner conform to the laws, ordinances and regulations pertaining to buildings in the city where situated. Where a part of a building or structure is used for the purpose set forth in this Act, this section shall apply in the same manner.

Section 5. No boxing or sparring match or exhibition shall be of more than ten rounds in duration; and the contestants shall wear during such contest gloves of not less than the following weights, to-wit:

In exhibitions or contests between boxers up to 140 pounds, 5 ounces.

From 140 to 170, not less than 6 ounces.

Over 175 pounds, not less than 8 ounces.

All boxing contests or sparring matches or exhibitions under this Act shall be presided over by a referee who shall give his decision, which shall be final as to the winner of said bout. Said referee is to be selected by the contestants from a list of licensed referees which list shall be furnished to the contestants by the Commission. In case the contestants cannot agree upon a referee within three days before the match, then and in that case the Commission shall appoint without regard to the desires of the contestants.

Section 6. Any club, corporation, fraternal society or association which may conduct, hold or give or participate in any sham or fake boxing or sparring match or exhibition shall thereby forfeit its license issued under the provisions of this Act, and it shall thereupon be by the Commission cancelled and declared void; and it shall not thereafter be entitled to receive another such or any license pursuant to the provisions of this Act.

Section 7. Any contestant who shall participate in any sham or fake boxing or sparring exhibition shall be totally disqualified from further admission or participation in any boxing contest held or given under this Act. Any contestant who shall participate in any sham or fake exhibition shall if the referee decides that the exhibition was a sham or a fake, forfeit his share of gate receipts or purse, but any contestant may have the right of appeal from the decision of the referee to the Commission and the decision of the Commission in such case shall be final.

Section 8. Every club, corporation, fraternal society or association which may hold or exercise any of the privileges conferred by this Act, shall within twenty-four hours after the determination of every contest furnish to the Commission written report duly verified by one of its officers, showing the number of tickets sold for each contest and the amount of the gross proceeds thereof and such other matters as the Commission may prescribe, and shall also at the same time, pay to the said Commission a tax of 10 per cent of its total gross receipts from the sale of tickets of admission to such boxing or sparring match or exhibition. Out of such proceeds there shall be paid to the members of the Commission for their services a sum not exceeding \$500 per year for each member, and out of such fund there shall be paid to the secretary such sum within the discretion of the Commission not exceeding \$1800 per year and all balances remaining out of such 10 per cent fund to be paid into the treasury of the state of South Dakota. The treasurer of the state shall pay 50 per cent of the balance of such 10 per cent fund to the treasurer of the beneficiary fund of the American Legion Department of

South Dakota to become a part of such fund and 50 per cent to the South Dakota Children's Home Society. Before any license shall be granted to any club, corporation, fraternal society or association to conduct, hold or give any boxing or sparring match or exhibit, such applicant therefor shall execute and file with the Commission a bond in the sum of \$5000 to be approved as to the form and the sufficiency of the sureties thereon by the secretary of the Commission, conditioned for the payment of the tax hereby imposed.

Section 9. No person shall be permitted to engage in any boxing or sparring match or exhibition without having first submitted to an examination by a reputable physician whose duty it is to determine whether or not such contestant is physically sound and in condition for such boxing or sparring match or exhibition, and if such examination should disclose physical defects which in the opinion of said physician would prevent such contestant from engaging in such match he shall not be permitted to go on. Said physician to be selected by the club, corporation, fraternal society or association with the approval of the Athletic Commission.

Section 10. The Athletic Commission shall also have under its control all wrestling exhibitions hereafter to be given in the state of South Dakota under such rules and regulations as it may prescribe and no wrestling exhibition shall be permitted in this state except it be under the direction of the holder of a license provided for in this act, and such exhibitions shall be subject to the control of said Athletic Commission in the same manner as boxing and sparring exhibitions provided for in this Act.

Section 11. Whenever any club, corporation, fraternal society or association shall fail to make a report of any contest at the time prescribed by this Act, or whenever such report is unsatisfactory to the Commission, it may examine or cause to be examined, the books and records of such club, corporation, fraternal society or association pertaining to contests held under the Commission's license, and may subpoena and examine under oath its officers and other persons as witness for the purpose of determining the total amount of its gross receipts for any contest and the amount of the tax due pursuant to the provisions of this Act, which tax the secretary may upon and as the result of such examination fix and determine. In case of the default in the payment of any tax so ascertained to be due, together with the expenses incurred in making such examination, for a period of twenty days after notice to such delinquent club, corporation or association of the amount at which the same may be fixed by the Commission such delinquent shall, ipso facto, forfeit its license and shall be thereby disqualified from receiving any new license or any renewal of license; and it shall in addition forfeit to the state of South Dakota the sum of \$500, which may be recovered by the Attorney General in the name of the state of South Dakota, in the same manner as other penalties are by law recovered. The Athletic Commission herein provided for shall have authority to limit the number of exhibitions which may be given under the license herein provided to such number during any one year as may in his opinion be deemed in the best interests of the community in which such license is held.

Section 12. Any person who violates any of the provisions of this Act for which a penalty is not herein expressly described, shall be guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars or a sentence of not less than ninety days in the county jail, or by both such fine and imprisonment.

Section 13. All acts and parts of acts in conflict with this act are hereby repealed.

Section 14. This act shall take effect and be in full force from and after July 1, 1923.

Approved March 12th, 1923.

State Board of Agriculture

CHAPTER 275,

(S. B. 5.)

RELATING TO STATE FAIR

AN ACT Entitled, An Act to Amend Section 7938 of the South Dakota Revised Code of 1919, as Amended by Section 3 of Chapter 316 of the Session Laws of 1919, Relating to the State Board of Agriculture.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 7938 of the Revised Code of 1919, as Amended by Chapter 316 of the Session Laws of 1919, shall be amended to read as follows:

Section 7938. **Location—When Held.** The State Board of Agriculture shall hold one state fair each year upon the grounds provided for such purpose by the state at the city of Huron. All sums received for admissions, concessions and privileges, or for any purpose, by such board, shall be placed in the custody of its treasurer and made a matter of record by him and shall be paid out only upon orders authorized by the board and drawn by the secretary. Any surplus over thirty-five thousand dollars remaining in the hands of the treasurer, after the payment of all reasonable and necessary claims, shall be paid over to the state treasurer by the treasurer of such board. Provided, that any surplus remaining in the hands of the treasurer shall be placed on time deposit certificates not to exceed one thousand dollars each, in such bank or banks as may be designated by the State Board of Agriculture and all interest received on same shall be a part of the receipts of such State Board of Agriculture. It shall be the duty of the Executive Accountant, and he is hereby authorized and empowered, either personally or by one or more of his accredited assistants, to examine and audit the books, records and accounts of the secretary and treasurer of the board at any time during or within sixty days after each annual fair, and to furnish copies of his report thereon to the Governor, the secretary of the State Board of Agriculture, the State Treasurer and the Attorney General.

Approved February 5, 1923.

State Board of Charities and Corrections

CHAPTER 276.

(S. B. 195)

RELATING TO POWERS OF THE BOARD

AN ACT Entitled, An Act to Amend Section 5385 of the South Dakota Revised Code of 1919 Relating to the Board of Charities and Corrections.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 5385 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 5385. **Visits Institutions Monthly.** It shall be the duty of such Board, at least once in each month or more often if necessary to visit all state institutions under its control and ascertain whether the money appropriated for their aid and maintenance has been and is being economically and judiciously expended, for the purposes for which it is appropriated. They shall approve the vouchers and abstract covering all vouchers during this meeting and see that all vouchers are carefully examined before being presented to State Auditor for payment. It shall also ascertain whether the objects of the several institutions are being accomplished; whether the laws in relation to them are fully complied with; whether all parts of the state are equally benefited by them; whether the officers and employees are competent and faithful; whether the conduct and management thereof are in all respects lawful and efficient; and it may remove the officers and employees thereof at pleasure.

Approved March 12th., 1923.

CHAPTER 277.

(S. B. 288.)

RELATING TO THE POWERS OF THE BOARD

AN ACT Entitled, An Act Relating to the Board of Charities and Corrections; Defining Their Duties as to Contracts on Buildings and Repairs and Letting of Bids for Such Buildings and Repairs and the Legal Management of such Penal Institutions.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. The board shall have power to make contracts for service, the erection of buildings, the purchase of lands, materials and supplies needed, except such supplies as are under the supervision of the commissioner of public printing; and in carrying out such contracts to have the power to expend money, exact and collect penalties, and to purchase and

sell property within the limitations of the state and national laws; provided, that all contracts for the erection and repair of buildings and the purchase of ordinary supplies exceeding in value five hundred dollars except coal needed by the institutions, shall be by means of publicly advertised competing bids and public letting; and provided further, that no member of the board shall be directly or indirectly pecuniarily interested in such contract, and the board may bring suit in the proper court in its own name, to enforce any contract made by its and any suit relating to such property, or to the care, custody, control, management or improvement thereof, and it shall be the duty of the attorney general to prosecute any such suit upon the request of the board. Any money collected upon any judgment obtained under the provisions of this section shall be paid into the treasury for the benefit of the penal institutions and credited to the proper fund or funds; it being intended by this section to confer and it does confer upon the board of charities and corrections all powers usually exercised by such boards and which are necessary to the proper legal management of the penal institutions placed under its control, and the property belonging to the same.

Section 2. All laws or acts or parts of laws or acts in conflict with the provisions of this act, be and the same are hereby repealed.

Approved March 5, 1923.

State Board of Finance

CHAPTER 278.

(H. B. 181)

RELATING TO THE STATE BOARD OF FINANCE

AN ACT Entitled, An Act to Amend Section 6872 of the South Dakota Revised Code of 1919 Relating to the Powers and Duties of the Board of Finance.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 6872 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 6872. Members, Duties.

Subdivision 1. The State Board of Finance, heretofore created, shall consist of the Governor, Treasurer, Secretary of State, State Auditor and Superintendent of Banks, any three of whom shall constitute a quorum. The Governor shall be chairman of the board and the Secretary of State its secretary. A record of its proceedings shall be kept in the office of the Secretary of State and be open at all times to public inspection. Such board shall meet on the third Tuesday of each month, or more frequently upon the request of the chairman or secretary. It shall have advisory supervision of the safe keeping of all funds coming into the state treasury, and all other funds belonging to the state coming into the

possession of any state board, officer or institution, and supervision of all of the fiscal affairs of the state.

Subdivision 2. The Board of Finance shall be the supervisor of the employment of all employees in any and all of the departments of the State of South Dakota, except such as come under the supervision of the Supreme Court, Board of Charities and Corrections and the Board of Regents, the Highway Department and the State Board of Agriculture. It shall be its duty to classify all grades of employees establish a uniform scale of salaries for the various grades of employees; determine the days and number of hours of service thereof investigate the needs and conditions in each and every department and determine the number of employees of each grade to be allowed in each such office or department; and to so co-ordinate the work of the employees in the various departments that employees may be shifted from one department, during a period of lax work therein, to another, and if necessary for this purpose the secretary of the board, under the direction of the board, shall employ and organize a central clerical and stenographic force, in addition to the regular employees, for use in the various departments as their services may be required. Provided, however, that before establishing such classifications or scale of salaries, or determining such numbers of employees or the days or hours of service thereof, the board shall conduct a hearing at which any officer, board, commission or head of department or employer may present the requirements of his or its department or office relating to employment.

Subdivision 3. No head of a department or person under whom there are employees of any grade shall have more employees of any given grade than so authorized, nor shall he pay more compensation for help of any given grade than is stipulated for that grade without written consent given after a hearing by such officers regarding the necessity of the situation. Hearings as provided in subdivision 2 hereof, regarding the requirements of any department may be held at any time either at the request of the head of the department or of the Governor, and must be held at least once every six months. The auditor shall honor no warrant for the payment of any employee whose employment is not authorized under the terms of this act.

Section 2. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Approved March 12, 1923.

State Board of Health

CHAPTER 279.

(H. B. 106)

ACCEPTING SHEPPARD-TOWNER MATERNITY AND INFANCY ACT

AN ACT Entitled, An Act Accepting the Provisions of an Act of the Congress of the United States, Commonly Known as the "Sheppard-Towner Maternity and Infancy Act," Providing for the Administration Thereof by the Division of Child Hygiene of the State Board of Health and Appropriating the Sum of Twenty Thousand Dollars for the Purpose of Carrying Out the Provisions of This Act.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That the State of South Dakota, acting by and through its State Legislature, does hereby accept the provisions of the Act of Congress of the United States, approved November 23, 1921, entitled "An Act for the Promotion of the Welfare and Hygiene of Maternity and Infancy and for other Purposes," and commonly known as the "Sheppard-Towner Maternity and Infancy Act," and providing a method of co-operation between the government of the United States and the several states.

Section 2. As provided in said Act of Congress, the Division of Child Hygiene of the State Board of Health is hereby designated as the state agency for the administration of this act, and is hereby authorized and empowered to make or cause to be made such studies, investigations and reports as will promote the efficient administration of this Act, and to co-operate with the United States Childrens Bureau in the administration thereof.

Section 3. That in the administration of this Act, no official, agent or representative of this state shall enter any home or take charge of any child over the objection of the parents, or either of them, or the person standing in loco parentis or having custody of such child. Nothing in this act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose.

Section 4. That all moneys accruing to this state under the provisions of the Federal Statute hereinbefore mentioned and under the appropriation made herein, shall be deposited in a separate fund by the State Treasurer, who shall be the Custodian thereof, and such funds shall be disbursed only upon warrants issued by the State Auditor upon vouchers or requisitions made by the Director of the Division of Child Hygiene, approved by the Superintendent of the State Board of Health. That there is hereby appropriated, out of any money in the state treasury not otherwise appropriated, the sum of Twenty Thousand Dollars, for the purpose of carrying out the provisions of this Act, and also for the purpose of meeting and accepting the provisional appropriation of the Federal Government under the provisions of the Sheppard-Towner Maternity and Infancy Law.

Approved March 12th., 1923.

State Bonds

CHAPTER 280.

(H. B. 334.)

RELATING TO STATE BONDS AND SINKING FUNDS

AN ACT Entitled, An Act Relating to the Authorization, Issue and Sale of State Bonds, To Sinking Funds Provided for the Payment of State Bonds and Investment of Such Sinking Funds.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. All bonds of the state shall hereafter be authorized, issued or sold only upon the written approval of the Governor, the Rural Credit Commissioner and the Attorney General, such written approval to be filed and recorded in the office of the board or commission authorized to issue such bonds, and a duplicate filed with the State Treasurer.

Section 2. The State Treasurer shall receive and keep in the respective sinking funds the moneys derived from the tax levies and shall credit to each fund the income derived from the investment of such fund. He shall, pursuant to the written directions of the Governor, the Rural Credit Commissioner and the Attorney General invest and re-invest the accumulations in all sinking funds in one or more of the following valid, interest-bearing securities: United States Bonds or Certificates of Indebtedness, State bonds, including bonds of this State, county, school district or municipal bonds of this State. Interest paid by depositaries on the accumulations in such funds remaining uninvested from time to time shall be credited to the respective funds.

Section 3. The Tax Commission shall take into account the revenues to be derived from the investment of the respective sinking funds when making tax levies to provide the revenue necessary to pay the interest and principal of each issue of State bonds.

Approved March 8, 1923.

State Funds

CHAPTER 281.

(H. B. 198.)

RELATING TO DEPOSITARIES OF STATE FUNDS

AN ACT Entitled, An Act to Amend Section 6875 of the 1919 Revised Code of the State of South Dakota, Relating to Depositary Bonds Given by Bank to Secure Deposit of State Funds.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6875 of the Revised 1919 Code of the State of South Dakota be amended to read as follows:

Section 6875. **Depositary's Bond Enforcement.** Before any bank designated as a depository shall receive state funds on deposit, it shall furnish a good and sufficient surety bond for the payment of such deposits and the interest thereon. Such bonds shall run to the state, and the state board of finance may sue in the name of the state, in any court having jurisdiction, to enforce the penalties upon any such bond in case of default or failure of any designated depository. Provided that any bank designated as a depository may deposit in lieu of such surety bond, United States government bonds, which government bonds shall be held with the same force and effect as a surety bond.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1923.

CHAPTER 282.

(S. B. 335.)

RELATING TO DEPOSITARIES OF STATE FUNDS

AN ACT Entitled, An Act to Amend Section 6873 of the South Dakota Revised Code of 1919, Relating to the Designation of Depositories for State Funds.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6873 of the South Dakota Revised Code of 1919 is hereby amended to read as follows:

Section 6873. **Depositories—Deposits—When Made—Treasurer's Liability.** The State Board of Finance shall designate such banks within the state as it may deem necessary to receive the deposits of state funds, and shall fix the maximum amount to be deposited in each. Such maximum amount shall in no case be fixed at more than forty per cent of the paid-up capital and surplus of such bank, except as provided in

Section 6877 of the South Dakota Revised Code of 1919 as Amended by Chapter 368 of the Session Laws of 1921. After such banks have given the required bonds and in all other respects complied with the conditions of such designation, the State Treasurer shall deposit therein, in the name of the State, all state funds that shall be or come into his hands within three days after receiving the same, but the amount he may deposit at any time in any of such depositories shall not exceed the amount fixed for deposit therein by the State Board of Finance, except as provided in Section 6877 of the South Dakota Revised Code of 1919 as Amended by Chapter 368 of the Session Laws of 1921, and the Treasurer shall deposit and maintain the balances in each depository as nearly as practicable in proportion to the maximum sum awarded to such depositories. The Treasurer shall not be liable personally, nor upon his official bond, for any money that may be lost by reason of the failure or insolvency of any bank which shall become a depository under this article; provided, however, that in the event the funds of the State exceed the maximum amount fixed to be deposited in the designated depositories, under the provisions of this article, the State Treasurer is authorized in his discretion to deposit the funds remaining in his hands in some solvent bank or banks, upon the best terms obtainable, but he shall be liable on his official bond for the safety of such funds; provided further, that the State Board of Finance may designate banking institutions in the Cities of Minneapolis, Minnesota, St. Paul, Minnesota, Chicago, Illinois, and New York, in the State of New York, as depositories and fiscal agents, in which institutions the State Treasurer may make deposits of funds for the payment of principal and interest of state bonds, and for the deposit of moneys received from the sale of bonds or tax anticipation warrants. Such depository shall furnish a surety bond of United States bonds or certificates of indebtedness to secure such deposits. Such bond shall run to the State, and such bond shall be conditioned for the payment of such deposits and the interest thereon. No deposits shall be made in such depositories in excess of the amount of the surety bond or the par value of the collateral furnished. Such surety bond or collateral may be deposited with a banking institution or trust company under a trust agreement, and the board is authorized to release such collateral from time to time and accept other collateral as security, sufficient to secure deposits.

Section 2. Whereas, this act is necessary for the immediate support of the state government and its existing public institutions, this act shall be in force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 283.

(S. B. 171)

TRANSFER, PUBLIC PRINTING FUND

AN ACT Entitled, An Act to Transfer the Unexpended Appropriation Made by Chapter 48, Laws of 1921 to the Public Printing Fund for the Fiscal Years of 1923 and 1924.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Whereas, there will be an unexpended balance in the appropriation made by Chapter 48, Laws of 1921, the amount of which cannot be determined until all the work for which such appropriation was made has been completed; now, therefor, upon notification by the Commissioner of Public Printing that all bills under said appropriation have been paid, the State Auditor and State Treasurer shall transfer upon their books the unexpended balance of such appropriation to the Public Printing Fund for the fiscal years of 1923 and 1924.

Approved March 6, 1923.

State Highway Commission

CHAPTER 284.

(H. B. 226)

RELATING TO HIGHWAYS

AN ACT Entitled, An Act to Amend Section 2 of Chapter 333 of the Session Laws of 1919, as Amended by Chapter 387 of the Session Laws of 1921, and to Amend Sections 9, 46, 53, 54, 58 and 60 of Chapter 333 of the Session Laws of 1919, Relating to the State Highway Commission and the System of State and County Highways, Procedure for Changing or Modifying Trunk Highway System, Erection of Highway Signs and Guides and Providing Penalty for Failure to Provide and Erect Same; and Providing for Maintenance of Trunk Highway System.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 2 of Chapter 333 of the Session Laws of 1919, as amended by Chapter 387 of the Session Laws of 1921, be and the same is hereby amended to read as follows:

Section 2. There is hereby created a State Highway Commission which shall consist of four members, as follows: The Governor, who shall be ex-officio chairman, and three other members to be appointed by the Governor who shall be known as the Highway Commissioners and who shall be appointed for a term of four years provided, however, that no person shall be eligible who is not a competent authority on road building. Said Highway Commissioners may be removed from office

by the Governor at his discretion. They shall devote their entire time to the duties of their office and shall receive an annual salary not to exceed \$3,600.00 per annum. Said Highway Commissioners shall take the oath prescribed for state officers and shall give bond to the state in the sum of \$10,000 conditioned upon the faithful discharge of the duties required by law.

Section 2. That Section 9 of Chapter 333 of the Session Laws of 1919 be and the same is hereby amended to read as follows:

Section 9. The Board of County Commissioners in each county throughout the state and the Highway Board in each unorganized county shall, prior to August 15, 1919, select and by resolution designate upon a map of the county a prospective county highway system. Such prospective county highway system shall include that portion of the main traveled roads within incorporated cities and towns and shall not include to exceed twenty-five per cent of the total public road mileage of any county. And, provided also, that a road or part thereof lying within the corporate limits of any city or town may be improved or constructed with state aid, to connect or complete the most direct route, a state aid road already improved or constructed, or being improved or constructed to the corporate limits of such city or town. The cost of such road for the same width as outside of the corporate limits and of the same material may be provided for in the same manner as for that portion outside the corporate limits. By agreement between the State Highway Commission and the proper city or town authority, a road or street of greater width and of different materials may be constructed through such city or town by the State Highway Commission, such city or town to pay the excess cost, if any, for such greater width, or different material. Provided, that if a county shall issue bonds for building or improving roads and highways, such bonds may be issued for and the funds thereby provided may be used on any or all of the highway systems in this Act provided for.

Section 3. That Section 46 of Chapter 333 of the Session Laws of 1919 be and the same is hereby amended to read as follows:

Section 46. Upon the selection and approval by the Highway Commission of the Trunk Highway System, the Highway Commission shall cause to be prepared an official map of the State of South Dakota, showing outlined thereon the exact location of said system, and shall forthwith file with each county auditor a copy of such map. No changes except the necessary re-locations and alterations in portions of the trunk highway system for purposes of construction shall be made by said Highway Commission until further investigation or hearings are held in the county or counties in which such change or changes are proposed. The Highway Commission shall fix a time and place for hearing, and shall give notice of such hearing in at least three legal weekly newspapers in each of the counties in which any part or portion of the change, relocation or alteration of the trunk highway system is proposed, for two successive weeks, the last publication of which shall be at least ten days prior to the date set for hearing. Such notice shall state the proposed change, relocation or alteration of the trunk highway system, and the time and place of such hearing. Any person interested may appear at such hearing for or in opposition to the proposed change, relocation or alteration. If after such investigation or hearing any alterations or additions are deemed expedient, the change shall be entered in writing upon the records and maps of the Highway Commission, and each county auditor shall be immediately notified to alter the official map on file with him in accordance therewith.

Section 4. That Section 53 of Chapter 333 of the Session Laws of 1919 be and the same is hereby amended to read as follows:

Section 53. The Highway Commission shall specify and may cause to be erected such standard guide and warning signs as it may deem necessary along the trunk highway system. Such signs shall be of uniform design throughout the state. It shall be illegal to erect or display any sign endangering the public or other guide or warning signs upon the trunk highway system except in case of emergency or when approved by the Highway Commission.

The public board or officer whose duty it is to repair or maintain any public highway shall erect and maintain at a point not nearer than fifty yards nor more than sixty yards on each side of any sharp turn, blind crossing or other point of danger on such highway, except railway crossings marked as required hereafter a substantial and conspicuous sign bearing in large letters the word "DANGER," which sign shall be on the right side of the highway approaching such point of danger. Any person or corporation owning, maintaining or operating any railway shall erect and maintain at a point not less than fifty nor more than sixty yards on each side of the place at which any highway crosses the railway track or right of way of such person or corporation, except within the limits of incorporated towns and cities a substantial and conspicuous sign bearing in lettering the following: "R. R. CROSSING," such sign to be on the right side of the highway approaching such crossing. If any person or corporation shall fail to erect any such sign or signs as are here required the county commissioners of the county in which such crossing or crossings are located shall cause such sign or signs to be erected and the county on relation of its state's attorney shall recover the cost thereof together with the sum of \$100.00 penalty in a civil action against the person or corporation failing to erect such sign or signs. Any person or corporation violating any of the provisions of this Act shall be deemed guilty of a misdemeanor.

Section 5. That Section 54 of Chapter 333 of the Session Laws of 1919 be and the same is hereby amended to read as follows:

Section 54. All moneys heretofore allotted or to be hereafter allotted to the State of South Dakota from the Federal Government as federal aid for roads, and all moneys levied and collected by the State of South Dakota by general state taxation for highway purposes, or received from the sale of bonds, or appropriated for highway purposes, shall be expended only in the laying out, marking, construction, reconstruction or maintenance of public highways forming the trunk highway system except such sums as are required for the maintenance of the Highway Commission as hereinbefore provided; provided, however, that after the portion of the trunk highway system in any county has been constructed, any further available state or federal aid funds allotted to such county may be expended upon the county highway system in such county.

The State Highway Commission shall arrange, so far as practical, to distribute and use the state and federal aid highway funds in the several counties of the state in such manner that each county shall receive an amount equal to at least 75 per cent of the funds in the state highway funds on March 14, 1919, and the funds received into the state highway fund from appropriations, sale of bonds and federal aid, and in order to proceed with highway construction in a practical manner, the Highway Commission shall make an estimated allotment to the several counties of the state of the funds made available by

appropriations, authorized bond issues and South Dakota's share of federal aid based on the assessed valuation of the respective counties as fixed and equalized by the Tax Commission for 1919. Any further appropriation or authorized bond issue to be allotted on basis of assessed valuation for the year preceding the legislative session authorizing such appropriation or bond issue. Such allotment or apportionment shall not be construed to mean that each county's allotment shall become a separate fund, but shall be used as a guide to indicate the amount of funds to be used in each county and may be taken out of either state or federal aid funds, or both, in the discretion of the Highway Commission.

The remaining twentyfive per cent of such funds shall be at the disposal of the State Highway Commission after deducting the necessary expenses of the maintenance of the Commission as hereinbefore provided.

Section 6. That Section 58 of Chapter 333 of the Session Laws of 1919 be and the same is hereby amended to read as follows:

Section 58. The Highway Commission may arrange to have the work done by day labor, or by convict labor, or by arrangement with the Board of County Commissioners, and may use the county forces and machinery, and the cost of the labor, materials, small tools, and rental of equipment required to properly perform the work shall be paid by the State Treasurer upon payrolls and vouchers or on estimates approved by the highway engineer. The Boards of County Commissioners are authorized to bid for the county upon work in their respective counties or may enter into contract with the state, without submitting competitive bids at advertised lettings. Provided that the Board of County Commissioners shall be authorized to co-operate with the Highway Commission in the construction and maintenance of the state trunk highway system lying within their respective counties and shall be authorized to use and expend funds from its county road fund for that purpose.

The State Highway Commission is authorized to purchase machinery, equipment, surplus war materials and may arrange with municipalities or contractors to use any machinery so obtained by the Highway Commission according to such rules, terms and regulations as may be adopted by the Highway Commission. Money received from rental or sale of machinery or other surplus war materials or for freight or other charges shall be deposited with the State Treasurer and credited to the state highway funds.

Section 7. Whereas, this Act is necessary for the immediate support of the State Government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1923.

CHAPTER 285.

(S. B. 318.)

RELATING TO MAINTENANCE OF HIGHWAYS AND BRIDGES

AN ACT Entitled, An Act to Provide for State Maintenance of Certain Highways, Bridges and Culverts.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. It shall be the duty of the State Highway Commission to maintain, and keep in repair all highways or portions of highways, including the bridges and culverts thereon, which highways have been constructed or improved by said State Highway Commission and paid for in whole or in part by State or Federal Aid. Provided, however, that the State Highway Commission may at its option, maintain and keep in repair such other portion or portions of the State Trunk Highway system which have not been constructed or improved by the State Highway Commission, or the construction or improvement of which has not been paid for in whole or in part by state or federal aid.

The State Highway Commission is hereby empowered to cause the work hereinbefore provided for, to be performed by day labor, or by convict labor or by contract or by agreement with the Board of County Commissioners, and if such work is done by contract, such contract may be let with or without competitive bids as such Highway Commission may determine, and the said Highway Commission is hereby empowered to rent, hire or purchase the necessary tools, machinery and equipment for the performance of said work and to make such rules and regulations concerning the use, care and keeping of such tools, machinery and equipment and the performance of said work as in its judgment it shall deem best. Any expenses incurred under the provisions of this section shall be paid out of the State Highway fund in such manner and at such times as the State Highway Commission shall determine.

Approved March 12, 1923. .

CHAPTER 286.

(S. B. 143.)

RELATING TO RIGHT OF WAY FOR HIGHWAYS

AN ACT Entitled, An Act to Amend Section 56 of Chapter 333 of the Session Laws of 1919, Relating to Highways.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 56 of Chapter 333 of the Session Laws of 1919 be and the same is hereby amended to read as follows:

Section 56. Each county shall acquire and pay for any lands or right-of-way of any section of the Trunk Highway to be improved. The county shall take title to such lands. Provided, that if by order of the State Highway Commission it shall be necessary for the Board of County Commissioners to acquire any land or lands outside of the limits

of any public highway in order to comply with any order issued by the State Highway Commission for the purpose of making a safe and proper grade, the board of county commissioners shall proceed to acquire title to any such land or lands in the name of and for the use of the county for highway purposes. Such land or lands may be acquired either by purchase or condemnation, and the proceedings shall be by resolution duly adopted and recorded in the office of the county auditor of the county. In case the owner of any such land or lands and the board of county commissioners cannot agree upon the price to be paid for any such land or lands by the county, the board of county commissioners may appoint a board of appraisers of three disinterested persons, or if demanded by the owner within ten days after the service of the resolution to condemn, the Board of County Commissioners shall appoint one disinterested person, the owner another and these two shall appoint a third not resident of the township in which said land or lands are situated, who shall make a careful inspection of such land or lands and fix a value upon the same, taking into consideration any benefits or damages that may accrue to such owner by the acquiring and use of any such land or lands. Such appraisal duly made and filed in the office of the county auditor shall be presumed to be the true value thereof and shall be the amount of the payment therefor by the board of county commissioners, unless changed by the judgment of a jury in the Circuit Court. Immediately after such appraisal has been made by the appraisers appointed as above provided the county auditor shall deliver a copy of such appraisal to the owner of such land or lands so appraised and if the owner of such land or lands is not a resident of the county and unknown to the county auditor he shall publish the result of such appraisal in the official newspapers of the county in two issues thereof, setting forth that such appraisal of such land or lands is in pursuance of proceedings to acquire such land or lands for highway construction purposes and that the county is prepared to and will pay the amount fixed by such board of appraisers for such land or lands to be used for such purposes. Upon completion of these proceedings, the board of county commissioners may proceed to use such land or lands for highway construction purposes. Provided further, that the proceedings above prescribed for acquiring lands for construction of highways by order of the State Highway Commission may also be followed in acquiring lands for highway construction by the board of county commissioners when such construction of highways is wholly within the hands of the board of county commissioners and paid for by county funds. The same may apply to the board of township supervisors in the construction of township highways. The above award of damages with settlement for any such land or lands shall be subject, however, to appeal therefrom to the circuit court and any person aggrieved by any award of damages made under the provisions of this act for lands taken for highway construction purposes may appeal from such decision to the circuit court in the manner prescribed for appeal from other decisions from the board of county commissioners. An appeal so taken shall be docketed as in other cases pending in Circuit Courts and the case shall be heard and determined *de novo*.

Approved March 12, 1923.

State Livestock Sanitary Board

CHAPTER 287.

(H. B. 168.)

RELATING TO ERADICATING CONTAGIOUS DISEASE IN LIVESTOCK BY COUNTIES, CITIES AND TOWNS

AN ACT Entitled, An Act Authorizing Counties, Cities and Towns to Expend Money for the Control or Eradication of Infectious, Contagious and Communicable Diseases of Livestock.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That boards of county commissioners and governing bodies of cities and towns are authorized to appropriate and expend money for the control or eradication of any infectious, contagious and communicable diseases among livestock within their respective corporate limits. Such funds shall be used in cooperation with the State Livestock Sanitary Board and the Federal Bureau of Animal Industry.

Approved March 2, 1923.

CHAPTER 288.

(H. B. 113)

RELATING TO VETERINARIES

AN ACT Entitled, An Act to Amend Section 8086 of the South Dakota Revised Code of 1919 as Amended by Chapter 340 of the Session Laws of 1919, Relating to the Livestock Sanitary Board, Defining Veterinary Practice, Regulating the Use and Handling of Hog Cholera Virus and Other Virulent Disease Germs, and Providing a Penalty.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 8086 of the South Dakota Revised Code of 1919 as amended by Chapter 340 of the Session Laws of 1919, be and the same is hereby amended to read as follows:

Section 8086. Any person who shall apply or prescribe any drug, medicine or other agency, or shall perform any operation for the treatment relief or cure of any diseased or injured domestic animal, or who shall publicly profess to so treat domestic animals; or who shall append or cause to be appended to his name upon any sign or in any published advertisement any of the following words or abbreviations, shall be regarded as practicing veterinary medicine or surgery, as the case may be, within the meaning of this article: Veterinary, veterinarian, veterinary surgeon, veterinary dentist, veterinary farrier, veterinary horseshoer, horse dentist, or horse doctor, V. S., D. M. V., M. D. C., D. V. S., M. R. C. V. S. Provided that nothing in this article shall be

construed to prohibit members of the medical profession from prescribing for domestic animals in case of emergency and collecting a fee therefor, to prohibit free service in any case, or to prevent any person from practicing veterinary medicine or surgery on any animal belonging to himself; and provided further, that this article shall not apply to veterinary surgeons in the employ of the United States army, federal inspectors, or to regularly licensed veterinarians actually called from other states to attend cases in this state, but who do not open an office or appoint a place to do business within this state, or to employees of or students under a licensed veterinarian legally qualified to practice as such under the provisions of this article. Provided, further, that no person except licensed veterinarians, county agricultural agents and farmers who are owners or breeders of swine, may use or administer hog cholera virus. Provided, further, that said farmers who are owners or breeders of swine shall not use said serum and virus except in the community in which they are bona fide residents, and that they shall receive no fee whatsoever for said service. Provided, further, that it shall be unlawful for any person to leave exposed, or scatter or place any hog cholera virus or other substance containing virulent disease germs, or any bottle or container thereof, in such a manner as may result in the spread of disease, or may infect any domestic animal with such virus or disease germs, or may contaminate any stream or body of water, or any land, lot or premises with such virus or disease germs. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in this Chapter.

Section 2. County agricultural agents shall not make and are hereby prohibited from making any charge for services performed in accordance with the provisions of Section 1 of this Act.

Section 3. That all Acts and parts of Acts in conflict with this Act are hereby repealed.

Approved March 7, 1923.

State Officers

CHAPTER 289.

(H. B. 332)

PROVIDING A FIXED EXPENSE ALLOWANCE TO CERTAIN STATE OFFICERS

AN ACT Entitled, An Act to Amend Section 7060 of the Revised Code of 1919 Relating to Expense Allowances to Secretary of State, State Auditor, State Treasurer, Superintendent of Public Instruction and Commissioner of School and Public Lands.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 7060 of the Revised Code of 1919 be amended to read as follows:

Section 7060. State Officers' Expense of Living at Other Than Legal Residence and Traveling, How Paid. Whenever a secretary of state, state auditor, state treasurer, superintendent of public instruction or commissioner of school and public lands, whose legal residence shall be at some place other than the state capital, there shall be paid to such officer in consideration of expenses incident to removal to the capital, the increased expenses of living at a place other than his legal residence, and the expense of traveling to and from such legal residence the sum of one hundred (\$100.00) dollars for each month, or so much thereof as may be appropriated by the Legislature, payable upon the certified vouchers of such officers, filed in the office of the state auditor.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the Governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the Secretary of State with his objections, within the time prescribed by the Constitution, has become a law without his approval.

C. E. COYNE, Secretary of State.

State School for the Blind

CHAPTER 290.

(H. B. 43.)

RELATING TO ADMISSION OF PUPILS

AN ACT Entitled, An Act to Amend Section 5503 of the South Dakota Revised Code of 1919, and Repealing Section 5502 of the South Dakota Revised Code of 1919, Relating to the Admission of Pupils to the State School for the Blind.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 5503 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 1. **Pupils, Who Admitted.** All persons, residents of this state, over six years of age and under twenty-one years of age, who by reason of blindness, either partial or total, have not received and are unable to receive the full benefits of the public schools, and who shall be capable of receiving instruction, and who are free from contagious or chronic diseases and physically fit to attend such school shall, upon application to the superintendent of the state school for the blind, be received and taught, free of charge, at such school and shall be entitled to receive an education in such institution of at least twelve years at the expense of the state; and the time that any pupil shall have spent in any institution for the education of the blind shall be deducted from the twelve years above specified; provided, however, that all pupils shall, in any event, be entitled to such support and education until they shall have arrived at the age of twenty-one years. And pupils over the age of twenty-one years, may, when circumstances warrant or require it, with the approval of a majority of the board of charities and corrections, be received and taught therein as herein provided. Like pupils may be received from without the state upon payment to the superintendent of the school for the blind, for the use and benefit of such school, of such charges for board, tuition and care, as shall be fixed by such board; but no pupil from without the state shall be received to the exclusion of any resident of this state. All pupils shall freely and equally enjoy all the benefits and privileges of the school, without preference or distinction, and be always treated with kindness and humanity and the most considerate regard for their misfortune. It shall be the duty of the person sending such blind or partially blind person to such school to pay the superintendent an amount of money sufficient to purchase for such pupil a return ticket to his home, and also to deposit with such superintendent the sum of ten dollars additional, which may be used by such superintendent in the purchase of necessary clothing and in defraying other incidental expenses of such pupil; and at the close of the school year or whenever such pupil ceases to attend such school, it shall be the duty of the superintendent to furnish such pupil a return ticket, and to return the unexpended balance of such deposit, together with an itemized statement showing all moneys expended for clothing or incidental expenses of such pupil, as aforesaid. In case the parent, guardian or custodian of

such blind or partially blind person, residing in this state, shall be unable to pay the railroad fare of such person and make the deposit hereinbefore provided for, it shall be the duty of the board of county commissioners of the county in which such person resides to advance and pay such railroad fare and such deposit upon requisition of the superintendent of such school for the blind, approved by the board of charities and corrections.

Section 2. The Board of Charities and Corrections is hereby authorized to provide for the care of a child, who is either partially or totally blind and whose parent or guardian is indigent or unable to provide proper care, in any institution suitably equipped for the care of such child and until such child has reached the age of six years. The expense for the care of such child shall be a charge against the county in which the parent or guardian thereof resides. The Board of Charities and Corrections shall certify to the auditor of such county on the first day of January and July of each year the amount due for the care of such child, and warrant shall be drawn on the general fund of the county, payable to the Board of Charities and Corrections. All amounts so received by the Board, and such amount as may be appropriated for the purpose of carrying the provisions of this section into effect, shall be placed in a revolving fund, and shall never be diverted or used for any purpose other than that provided herein.

Section 3. That Section 5502 of the South Dakota Revised Code of 1919 be and the same is hereby repealed.

Approved March 2, 1923.

State Sanitarium

CHAPTER 291.

(S. B. 214)

RELATING TO STATE SANITARIUM

AN ACT Entitled, An Act to Amend Sections 5542, 5544, 5543, 5546 and 5547, of the South Dakota Revised Code of 1919, Relating to Admission of Patients, Hearing Before County Judge, Duties of County Auditor and County Treasurer, Method of Collecting Costs of Treatment, and to Provide a Uniform System of Keeping Accounts Between the County and Its Patients in the State Sanitarium.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 5542 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 5542. **Patients Admitted.** No patient shall be admitted to the Sanitarium except those afflicted with pulmonary tuberculosis in the incipient state and who show reasonable probability of satisfactory improvement by treatment therein. The cost of treatment of each patient therein is hereby fixed at \$11.00 per week. Any person wishing to become a patient in the institution shall first make application to the

County Judge of the county; which application shall be made in duplicate and if it can be so done, upon blanks prepared by the superintendent of such sanitarium and such blank shall require a statement of how long the applicant has resided in the county and state, where application is made; a statement as to his age, particular place of residence, postoffice address, whether married or single, name of wife or husband, children, parents, brothers or sisters, if any, give their postoffice address; also a statement of applicant's present and prospective financial condition, the name and residence of any person liable for his or her support; a statement whether the applicant will be able to pay the expense of his treatment in the sanitarium together with a statement as to his family history which will aid the physician hereinafter authorized to examine such applicant and the Superintendent of the Sanitarium, in determining whether such applicant is eligible for treatment in the sanitarium. If it appears from such application that the applicant has been a bona fide resident of this state for a period of one year and has a legal settlement in the county and if not where such legal settlement is, and has not come into this state and the county for the purpose of gaining a residence to secure admission to said sanitarium, the county judge shall at once notify the State's Attorney of the county of such application and shall require such applicant to be examined by the physician appointed by the Superintendent and in the absence of such physician or inability to act, the county judge may appoint some other practicing physician to make such examination. Such physician shall examine fully such applicant with the view of determining whether he is afflicted with incipient pulmonary tuberculosis and shall obtain in duplicate, full and complete answers to the questions on blanks which are furnished him by the Superintendent of said Sanitarium for that purpose, and shall add any additional information which the physician may possess or which he may obtain from reliable sources which may aid in determining the applicant's eligibility for admission to such sanitarium. When such examination is completed such physician shall make a report of the same in duplicate to the County Judge. On receipt of the report of the physician's examination, if it appear therefrom and from the application that said applicant is eligible for treatment in said sanitarium, the County Judge shall forward one of the duplicate applications with one copy of the physicians report to the Superintendent of such sanitarium, who shall examine the same, and if he finds therefrom that the applicant is in all respects under the law entitled to admission he shall so advise the county judge as to whether there is room for such applicant, and if there is not, as to when he could probably be received. If such Superintendent advise such applicant is not eligible for admission he shall so notify said applicant direct, by mail, and shall also notify the County Judge. Provided, that if the applicant has not been received in the sanitarium within thirty days after his examination by the physician in the county, the Superintendent of the sanitarium may in that case require, an additional examination before admission. If, however the Superintendent after receiving the report of the examining physician is in doubt as to whether it is a case of incipient pulmonary tuberculosis, he may personally examine the applicant in case he presents himself at the institution for that purpose.

Section 2. That Section 5543 be amended to read as follows:

Section 5543. Superintendent to Appoint Physicians in County. The Superintendent of the Sanitarium shall appoint in each county of the state, subject to the approval of the County Judge of the county, one reputable physician, duly licensed in this state, whose appointment may

be discontinued at the pleasure of such Superintendent, whose duty it shall be to examine all persons making application to be admitted as patients to the sanitarium whose duty it shall be to make the examinations provided in the preceding section. For making such examinations such physician shall be entitled to a fee, which fee shall be paid by the county, unless the applicant or his relatives or friends are willing to pay the same; when paid by the county such fee shall be charged to and collected by the county from the patient or any person liable for his support in the same manner as charges for his treatment are collected.

Section 3. That Section 5544 be amended to read as follows:

Section 5544. **Hearing Before County Judge.** On receipt of notice from the Superintendent of the State Sanitarium that such applicant is eligible for admission thereto, the County Judge shall set a time and place for hearing such application and shall notify the applicant and the State's Attorney by mail of the time and place; provided, that if the application discloses that the applicant has a legal settlement in a county other than the one wherein application was made, the county judge shall mail notice of the time and place of the hearing to the states attorney of the county wherein the applicant has legal settlement; Provided further, that if upon the hearing it appears that the applicant or the persons legally liable cannot pay for the care of the applicant and that the county must pay therefor, and that the applicant has legal settlement in another county, the county judge shall stay such hearing and shall immediately notify the states attorney of the county wherein it appears that the applicant has legal settlement of the time and place where such hearing shall be resumed. The issues to be tried at such hearing shall be the legal settlement of the applicant, and as to what amount if any, the applicant or those legally liable for his support are able to pay per week for the treatment of the applicant the states attorney representing their respective counties and the burden of proof being on the applicant. If upon such hearing the county judge finds that the applicant is able to pay eleven dollars a week, he shall make an order that the cost of treatment shall be paid into the county treasury of the county wherein the applicant resides, by the applicant or by the person or persons legally liable for his support, and shall require of the applicant or the person or persons liable for his support an undertaking running to such county in the sum of five hundred dollars with two or more sufficient sureties, to be approved by the county judge, conditioned for the payment into the county treasury, for the county of which such applicant is a resident, of the sum of eleven dollars per week at the end of each and every month. If upon such hearing the county judge finds that the applicant or those liable for his support is or are unable to pay any part of said eleven dollars per week, the judge shall make an order that the cost of the treatment shall be paid by the county in which the applicant has a legal settlement. If, however, upon such hearing the applicant, in the opinion of the county judge, is able to pay a part of said eleven dollars per week, but not the whole thereof, the judge shall make an order finding the amount that the applicant is able to pay and the balance of the eleven dollars per week shall be paid by the county in which the applicant has a legal settlement, and the judge shall require the applicant to enter into an undertaking in the sum of three hundred dollars with two or more sufficient sureties to be approved by the judge, conditioned that the applicant will pay at the end of each month into the county treasury of the county in which he has legal settlement, the amount the county judge has found him able to pay, such undertaking to be filed with the county auditor, Provided the county judge shall cause

stenographic copies, in triplicate, of the testimony taken at such hearing to be made and in case of a contest between counties the findings of the county judge and his order shall also be made in triplicate and one copy filed in the office of the county Auditor of each contesting county, and one copy of each transmitted to the Superintendent of the said sanitarium. When there is no such contest between counties, such copies shall be made in duplicate, a copy of such testimony together with a copy of the findings and order shall be so filed with the county Auditor of the county and copies of the same transmitted to the Superintendent of the State Sanitarium.

Section 4. That Section 5546 be amended to read as follows:

Section 5546. Duties of County Auditor and County Treasurer. It shall be the duty of the county treasurer of each county having patients in the sanitarium to receive and receipt for all sums of money due from such patients to his county, and which receipts shall be made in triplicate, on copy of which shall be filed with the county auditor. Providing further, that it shall be the duty of the county treasurer of each county having patients in the Sanitarium to remit to the State Treasurer at the end of each quarter of the calendar year \$11.00 per week for each and every patient from such county, while in such sanitarium and when the same is remitted to notify the county auditor. At the end of each quarter the Superintendent of such sanitarium shall render a statement to the auditor and treasurer of each county having one or more patients in the sanitarium, showing the amount due for each patient for the quarter and the superintendent shall make a brief statement as to the progress and physical condition of each patient. Provided, further, it shall be the duty of the superintendent of the sanitarium to furnish at once to the county auditor of the county and to the county judge wherein the legal settlement is found to be, the name of each patient discharged, whether recovered, paroled or on visit.

Section 5. That Section 5547 be amended to read as follows:

Section 5547. Method of Collecting Costs of Treatment. The cost of treatment of patients at the state sanitarium shall be met, primarily, by the state by appropriations made therefor; provided, that such cost shall be a charge upon each county sending patients to such sanitarium at the rate of eleven dollars per week per patient; provided, further, that the cost of each patient shall be a charge upon such patient in favor of the county sending him or her to such sanitarium so far as he or she or the persons legally liable for his or her support are able to pay the same. Provided, the statute of limitations shall not begin to run against such account until the final discharge of such patient from said sanitarium, but nothing herein contained shall prevent the enforcement of collection prior to that time.

Section 6. Uniform System of Accounts. It shall be the duty of the state executive accountant in consultation with the state auditor and attorney general to devise properly a uniform system of keeping accounts between the county and its patients in the state sanitarium and between the county and the state, to the end that there may be a uniform system of keeping such accounts in all counties of the state. It shall be the duty of the committee named above to have prepared and publish under the provisions of the law governing public printing and supplies, an account book for each county, in stock form, incorporating such uniform system of accounts. Such book may be a separate book or may be a separate division in any similar book provided for keeping the accounts of the insane in the county. The expense of such publication shall in

the first instance be paid by the state but when published the book shall be forwarded by the state auditor to the county auditor to the respective counties of the state and expense of publication shall be charged and paid by the respective counties. It shall be the duty of the county auditor, immediately after the receipt of the account book herein provided, to call to his assistance the county judge, the states attorney and the clerk of courts in accordance with such direction as may be prescribed by the state executive accountant and make up and enter in said account book a statement as to each patient from the county and in the state sanitarium and of any patient which may have been discharged therefrom who may be owing the county any portion of the amount charged to him for his treatment therein, giving as far as possible the information required under this act and other provisions of law, including a statement of the account of such patient or any one liable to the county for his or her support. The county auditor shall upon receipt of the statement from the superintendent of said state sanitarium requiring payment for the care of patients therein enter the proper charge against the respective patients and shall notify those legally bound for the support of such patients requiring them to pay the same, which payment shall be made to the county treasurer of the county in which such charge has been made and when such payment is made, a receipt shall be issued, in triplicate and one copy of such receipt shall be filed with the county auditor who shall give proper credit for the same. On failure of such patients or those legally liable for his support to make such payments it shall be the duty of the county auditor to call the attention of the states attorney to the failure to make such payment and it shall be the duty of the states attorney to enforce the same. The county auditor shall also note upon his record information in regard to each patient which may be transmitted to him from time to time by the superintendent of such sanitarium and which he shall derive from any other source.

— Approved March 12th., 1923.

State Training School

CHAPTER 292.

(S. B. 203.)

INVESTIGATION AND TRANSFER OF FEEBLE MINDED

AN ACT Entitled, An Act to Amend Sections 5512, 5513 and 5514 of the South Dakota Revised Code of 1919, Relating to the State Training School.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 5512 of the Revised Code of 1919 be amended to read as follows:

Section 5512. It shall be the duty of the Board of Charities and Corrections to investigate each case so reported and whenever satisfied that such inmate is a proper subject for committment to the State School and Home for Feeble Minded the said Board is authorized to transfer any such inmate detained in the State Training School from such school to the State School and Home for the Feeble Minded, or in the event any inmate of the State School and Home for the Feeble Minded is a fit subject for the State Training School the said board is authorized to transfer such inmate from the State School and Home for the Feeble Minded to the State Training School.

Section 2. That Section 5513 of the Revised Code of 1919 be amended to read as follows:

Section 5513. That the said Board of Charities and Corrections shall have full authority to investigate all cases of epileptic or feeble minded inmates of the State School and Home for Feeble Minded and also all inmates of the State Training School and make such orders as it may deem to the best interests of such inmates.

Section 3. That Section 5514 of the Revised Code of 1919 be amended to read as follows:

Section 5514. All costs of transporting of an inmate of the State Training School to the School and Home for Feeble Minded shall be paid out of the funds of the Training School and all costs of transporting of an inmate from the School and Home for Feeble Minded to the State Training School shall be paid out of the funds of the School and Home for Feeble Minded.

Approved March 8, 1923.

Townships

CHAPTER 293.

(S. B. 187)

RELATING TO RESURVEY FOR TAXATION

AN ACT Entitled, An Act Amending Section 6052 of the South Dakota Revised Code of 1919, Relating to Resurvey for Taxation.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6052 of the South Dakota Revised Code of 1919 be and is hereby amended to read as follows:

Section 6052. Resurvey for Taxation. Whenever one-fourth of the free-holders of any township shall petition so to do, the township board of supervisors shall call a special election, to be held in connection with the next regular township election, at which shall be submitted to the electors of the township the question, "Shall this township be resurveyed for taxation purposes"? and if a majority of the votes cast at such special election upon such question shall be in favor of such resurvey, the county surveyor, state or deputy state surveyor shall be employed to survey such township and shall ascertain and designate the true number of acres in each regular subdivision thereof, and he shall make a plat of such township, upon each subdivision of which shall be plainly printed the number of acres contained therein, which plat shall be duly recorded in the office of the county auditor and the original shall be preserved in the office of the township clerk, and thereafter the township assessor shall observe the acreage so determined to be in each subdivision of land in assessing the same. Such survey shall be competent for no other purpose; Provided, further that when one or more persons, desiring a resurvey of any particular tract or tracts at their own expense, he or they may call upon the county, state or deputy state surveyor to survey such tract or tracts of land who shall ascertain and designate the true number of acres in each regular subdivision thereof, and he shall make a plat of such tract or tracts, upon each subdivision of which shall be plainly printed the number of acres contained therein, which plat when approved by the Board of County Commissioners shall be duly recorded in the office of the county auditor and the original shall be preserved in the office of the town clerk and thereafter the township assessor shall observe the acreage so determined to be in each subdivision of land in assessing the same. Such survey shall be competent for no other purpose.

Approved March 12th., 1923.

Uniform Flag Law

CHAPTER 294.

(H. B. 210.)

RELATING TO UNIFORM FLAG LAW

AN ACT Entitled, An Act to Prevent and Punish the Desecration, Mutilation or Improper Use of the Flag of the United States of America, and of This State, and of any Flag, Standard, Color, Ensign or Shield Authorized by Law.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Definition. The words flag, standard, color, ensign or shield, as used in this act, shall include any flag, standard, color, ensign or shield, or copy, picture or representation thereof, made of any substance or represented or produced thereon, and of any size, evidently purporting to be such flag, standard, color, ensign or shield of the United States or of this state, or a copy, picture or representation thereof.

Section 2. Desecration. No person shall, in any manner, for exhibition or display: (a) place or cause to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon any flag, standard, color, ensign or shield of the United States or of this state, or authorized by any law of the United States or of this state; or (b) expose to public view any such flag, standard, color, ensign or shield upon which shall have been printed, painted or otherwise produced, or to which shall have been attached, appended, affixed or annexed any such word, figure, mark, picture, design, drawing or advertisement; or (c) expose to public view for sale, manufacture, or otherwise, or to sell, give or have in possession for sale, for gift or for use for any purpose, any substance, being an article of merchandise, or receptacle, or thing for holding or carrying merchandise, upon or to which shall have been produced or attached any such flag, standard, color, ensign or shield, in order to advertise, call attention to, decorate mark or distinguish such article or substance.

Section 3. Mutilation. No person shall publicly mutilate, deface, defile, defy, trample upon or by word or act cast contempt upon any such flag, standard, color, ensign or shield.

Section 4. Exceptions. This statute shall not apply to any act permitted by the statutes of the United States (or of this state), or by the United States Army and Navy regulations, nor shall it apply to any printed or written document or production, stationery, ornament, picture or jewelry whereon shall be depicted said flag, standard, color, ensign or shield with no design or words thereon and disconnected with any advertisement.

Section 5. Penalty. Any violation of Sections Two and Three of this Act shall be a misdemeanor.

Section 6. Inconsistent Acts Repealed. All laws and parts of laws in conflict herewith are hereby repealed.

Section 7. Interpretation. This Act shall be so construed as to

effectuate its general purpose and to make uniform the laws of the states which enact it.

Section 8. **Name of Act.** This Act may be cited as the Uniform Flag Law.

Approved March 12, 1923.

Uniform Illegitimacy Act

CHAPTER 295.

(H. B. 208)

RELATING TO CHILDREN BORN OUT OF WEDLOCK

AN ACT Entitled, An Act Relating to Children Born Out of Wedlock and to Make Uniform the Law Relating Thereto.

Be It Enacted by the Legislature of the State of South Dakota:

ARTICLE I. OBLIGATION OF SUPPORT

Section 1. **Obligation of Parents.** The parents of a child born out of wedlock and not legitimated (in this act referred to as "the child") owe the child necessary maintenance, education, and support.

They are also liable for the child's funeral expenses.

The father is also liable to pay the expenses of the mother's pregnancy and confinement.

The obligation of the parent to support the child under the laws for the support of poor relatives applies to children born out of wedlock.

Section 2. **Recovery by Mother from Father.** The mother may recover from the father a reasonable share of the necessary support of the child.

In the absence of a previous demand in writing served personally or by registered letter addressed to the father at his last known residence, not more than two years' support furnished prior to the bringing of the action may be recovered from the father.

Section 3. **Recovery by Others Than Mother.** The obligation of the father as herein provided creates also a cause of action on behalf of the legal representatives of the mother, or on behalf of third persons furnishing support or defraying the reasonable expenses thereof, where paternity has been judicially established by proceedings brought by the mother or by or on behalf of the child or by the authorities charged with its support, or where paternity has been acknowledged by the father in writing or by the part performance of the obligations imposed upon him.

Section 4. **Discharge of Father's Obligation.** The obligation of the father other than that under the laws providing for the support of poor relatives is discharged by complying with a judicial decree for support or with the terms of a judicially approved settlement.

The legal adoption of the child into another family discharges the obligation for the period subsequent to the adoption.

Section 5. Liability of the Father's Estate. The obligation of the father, where his paternity has been judicially established in his life time or has been acknowledged by him in writing or by the part performance of his obligations, is enforceable against his estate in such an amount as the court may determine, having regard to the age of the child, the ability of the mother to support it, the amount of property left by the father, the number, age and financial condition of the lawful issue, if any, and the rights of the widow, if any.

The court may direct the discharge of the obligation by periodical payments or by the payment of a lump sum.

ARTICLE II STATUTORY PROCEEDINGS TO ENFORCE THE OBLIGATION OF THE FATHER

Section 6. Non-Exclusiveness. Proceedings to compel support by the father may be brought in accordance with sections 7 to 28 of this act. They shall not be exclusive of other proceedings that may be available on principles of law or equity.

Section 7. Complainants. The proceeding to compel support may be brought by the mother, or if the child is or is likely to be a public charge, by the authorities charged with its support. After the death of the mother or in case of her disability, it may also be brought by the child acting through its guardian or next friend.

If the proceeding is brought by the public authorities, the mother, if living, shall be made a party defendant.

Section 8. Time of Bringing Complaint. The proceeding may be instituted during the pregnancy of the mother or after the birth of the child, but, except with the consent of the person charged with being the father, the trial shall not be had until after the birth of the child.

Section 9. Complaint—Where Broughts. The complaint may be made to any judge or magistrate having power to commit for trial.

Section 10. Form of Complaint. The complaint shall be in writing, or oral and in the presence of the complainant reduced to writing by the judge or magistrate or the clerk of the court. It shall be verified by oath or affirmation of the complainant.

Section 11. Substance of Complaint. The complainant shall charge the person named as defendant with being the father of the child and demand that he be brought before the judge or magistrate to answer the charge.

Section 12. Process. The judge or magistrate shall issue his warrant for the apprehension of the defendant, directed to any officer in the state authorized to execute warrants, and such warrant may be executed in any part of the state. With the consent of the complainant, a summons may be issued in the first instance as in other civil cases, instead of a warrant, which summons shall be personally served.

Section 13. Preliminary Hearing. Upon the return of the warrant, or upon return of the summons showing service on the defendant, the judge or magistrate before whom the complaint was made, or, in his absence, any other judge or magistrate having power to commit, shall proceed to examine the complainant and any other witnesses and receive any other evidence that may be produced, touching the charge. The defendant shall have the right to be present at the examination and to controvert such charge, if he so desires. The examination shall be reduced to writing.

Section 14. Result of Preliminary Hearing. If the examination fails to show probable cause the defendant shall be discharged without prejudice to further proceedings.

If the examination shows probable cause, the judge or magistrate shall bind the defendant in bond or recognizance, with sufficient security, to appear at the next term of the circuit court to be held in the county. On neglect or refusal to furnish such security, he shall commit the defendant to jail to be held to answer the complaint.

The warrant, the examination reduced to writing, and the security, shall be returned to the circuit court.

Section 15. Continuance of Trial. If the child is not born at the time set for trial, the case shall, unless the defendant consents to trial, be continued until the child is born, and the defendant shall remain bound or held until trial.

Section 16. Trial. The trial shall be by jury, if either party demands a jury, otherwise by the court, and shall be conducted as in other civil cases.

Both the mother and the alleged father shall be competent but not compellable to give evidence, and if either gives evidence he or she shall be subject to cross-examination.

Section 17. Absence of Defendant. If the defendant fails to appear, the security for his appearance shall be forfeited and shall be applied on account of the payment of the judgment, but the trial shall proceed as if he were present; and the court shall upon the findings of the judge or the verdict of the jury make such orders as if the defendant were in court.

Section 18. Effect of Death or Absence or Insanity of Mother. If after the complaint the mother dies or becomes insane or cannot be found within the jurisdiction, the proceeding does not abate, but the child shall be substituted as complainant. The testimony of the mother taken at the preliminary hearing, and her deposition taken as in other civil cases, may in any such case be read in evidence and in all cases shall be read in evidence, if demanded by the defendant.

Section 19. Death of Defendant. In case of the death of the defendant, after the preliminary hearing, the action may be prosecuted against the personal representatives of the deceased with like effect as if he were living, subject as regards the measure of support to the provision of Section 6 except that no arrest of such personal representatives shall take place or bond be required of him.

Section 20. Finding for Defendant. If the verdict of the jury at the trial or the finding of the court be in favor of the defendant and there be a motion for a new trial, he shall be held until such motion be disposed of; and if a new trial is granted, the same course shall be pursued as in case of a continuance.

Section 21. Judgment. If the finding or verdict be against the defendant, the court shall give judgment against him declaring paternity and for support of the child.

The judgment shall be for annual amounts, equal or varying, having regard to the obligation of the father under Section 1, as the court directs, until the child reaches the age of sixteen years.

The payments may be required to be made at such periods or intervals as the court directs.

In addition to providing for support, the judgment may also provide for the payment of the necessary expenses incurred by or for the mother in connection with the birth of the child.

Section 22. Payment to Trustee. The court may require the payments to be made to the mother, or to some person or corporation to be designated by the court as trustee.

The payments shall be directed to be made to a trustee if the mother does not reside within the jurisdiction of the court.

The trustee shall report to the court annually, or oftener as directed by the court, the amounts received and paid over.

Section 23. Security, Commitment, Probation. The court may require the father to give security, by bond with sureties, for the payment of the judgment. In default of such security, when required, the court may commit him to jail. After one year the person so committed may be discharged in accordance with the law relating to the discharge of insolvent debtors, but his liability to pay the judgment shall not be thereby affected.

Instead of committing the father to jail, or as a condition of his release from jail, the court may commit him to the custody of a probation officer, upon such terms regarding payments and personal reports, as the court may direct. Upon violation of the terms imposed, the court may commit or recommit the father to jail.

Section 24. Enforcement on Default. Where security is given and default is made in any payment, the court shall cite the parties bound by the security requiring them to show cause why judgment should not be given against them and execution issue thereon. If the amount due and unpaid be not paid before the return day of the citation, and no cause be shown to be contrary, judgment shall be rendered against those served with the citation for the amount due and unpaid together with costs, and execution shall issue therefor, saving all remedies upon the bond for future defaults. The judgment shall be enforceable as other judgments.

Section 25. Contempt Process. The court also has power, on default as aforesaid, to adjudge the father in contempt and to order him committed to jail in the same manner and with the same powers as in case of commitment for default in giving security. The commitment of the father shall not operate to stay execution upon the judgment on the bond.

Section 26. Agreement or Compromise. An agreement or compromise made by the mother or child or by some authorized person on their behalf with the father concerning the support of the child shall be binding upon the mother and child only when adequate provision is fully secured by payment or otherwise and when approved by a court having jurisdiction to compel support of the child.

The performance of the agreement or compromise, when so approved, shall bar other remedies of the mother or child for the support of the child.

Section 27. Continuing Jurisdiction. The court has continuing jurisdiction over proceedings brought to compel support and to increase or decrease the amount thereof, until the judgment of the court has been completely satisfied, and also has continuing jurisdiction to determine custody in accordance with the interests of the child.

ARTICLE III. CRIMINAL OFFENSES

Section 28. Failure to Support. The failure of the father without lawful excuse, to support the child where the same is not in his custody, and where paternity has been judicially established, or has been acknowledged by him in writing or by the part performance of his obligations,

is a misdemeanor, punishable by fine not exceeding One Thousand Dollars (\$1000.00), or by imprisonment in the county jail for not exceeding one year or by both such fine and imprisonment.

The failure of the parent to support the child where the same is in his or her custody shall be governed by the laws applicable to the failure to support a legitimate child.

Section 29. Failure to Carry Out Judgment. The failure, without lawful excuse, of a father to comply with and carry out a judgment for the support of the child, whether the child be a resident in the jurisdiction where the judgment was rendered or not, is a misdemeanor punishable by fine not exceeding \$1000 or by imprisonment in the county jail for not exceeding one year, or by both such fine and imprisonment.

Section 30. Probation. Upon a prosecution under the provisions of Section 28 or Section 29, on entry of a plea of guilty or after conviction, the court, instead of imposing sentence or of committing the father to jail, or as a condition of his release from jail, may commit him to the custody of a probation officer, upon such terms as to payment of support, to or on behalf of the mother or child and as to personal reports, as the court may direct. Upon violation of the terms imposed, the court may proceed to impose the sentence and commit or recommit to jail in accordance with the sentence.

ARTICLE IV. CONCURRENCE AND LIMITATION OF REMEDIES

Section 31. Concurrence of Remedies. A criminal prosecution brought in accordance with the provisions of Section 28 or Section 29 shall not be a bar to, or be barred by, civil proceedings to compel support; but money paid toward the support of the child under the provisions of Section 30 shall be allowed for and credited in determining or enforcing any civil liability.

Section 32. Limitation of Actions. Proceedings to enforce the obligation of the father shall not be brought after the lapse of more than two years from the birth of the child, unless paternity has been judicially established, or has been acknowledged by the father in writing or by the furnishing of support.

ARTICLE V. JURISDICTIONAL PROVISIONS

Section 33. Available District. Jurisdiction over proceedings to compel support is vested in the circuit court of the county in which the alleged father is permanently or temporarily resident, or in which the mother or the child resides or is found. It is not a bar to the jurisdiction of the court, that the complaining mother or child resides in another state.

Section 34. Judgment of Other State. The judgment of the court of another state rendered in proceedings to compel support of a child born out of wedlock, and directing payment either of a fixed sum or of sums payable from time to time, may be sued upon in this state and be made a domestic judgment so far as not inconsistent with the laws of this state, and the same remedies may thereupon be had upon such judgment as if it had been recovered originally in this state.

ARTICLE VI. GENERAL PROVISIONS

Section 35. Reference to Relation of Mother and Child. In all records, certificates, or other papers hereafter made or executed, other than birth records and certificates or records of judicial proceedings in which the question of birth out of wedlock is at issue, requiring a declara-

tion by or notice to the mother of a child born out of wedlock or otherwise requiring a reference to the relation of a mother to such a child, it shall be sufficient for all purposes to refer to the mother as the parent having the sole custody of the child or to the child as being in the sole custody of the mother, and no explicit reference shall be made to illegitimacy, and the term natural shall be deemed equivalent to the term illegitimate when referring to parentage or birth out of wedlock.

Section 36. Construction of Act. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those states which enact it.

Section 37. Short Title. This act may be cited as the Uniform Illegitimacy Act.

Section 38. Operation and Repealing Clause. This act applies to all cases of birth out of wedlock where birth occurs after this act takes effect, except that Section 35 applies to all cases occurring after this act takes effect.

As to all such cases, all acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 12th., 1923.

Uniform Partnership Act

CHAPTER 296.

(S. B. 328)

RELATING TO PARTNERSHIPS

AN ACT Entitled, An Act to Make Uniform the Law of Partnerships.

Be It Enacted by the Legislature of the State of South Dakota:

PART I.

PRELIMINARY PROVISIONS

Section 1. Name of Act. This act may be cited as Uniform Partnership Act.

Section 2. Definition of Terms. In this act, "Court" includes every court and judge having jurisdiction in the case.

"Business" includes every trade, occupation, or profession.

"Person" includes individuals, partnerships, corporations, and other associations.

"Bankrupt" includes bankrupt under the Federal Bankruptcy Act or insolvent under any state insolvent act.

"Conveyance" includes every assignment, lease, mortgage, or encumbrance.

"Real Property" includes land and any interest or estate in land.

Section 3. Interpretation of Knowledge and Notice. (1) A person has "knowledge" of a fact within the meaning of this act not only when

he has actual knowledge thereof, but also when he has knowledge of such other facts as in the circumstances shows bad faith. (2) A person has "notice" of a fact within the meaning of this act when the person who claims the benefit of the notice

- (a) States the fact to such person, or
- (b) Delivers through the mail, or by other means of communication, a written statement of the fact to such person or to a proper person at his place of business or residence.

Section 4. Rules of Construction. (1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this act.

- (2) The law of estoppel shall apply under this act.
- (3) The law of agency shall apply under this act.
- (4) This act shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.
- (5) This act shall not be construed so as to impair the obligations of any contract existing when the act goes into effect, nor to affect any action or proceedings begun or right accrued before this act takes effect.

Section 5. Rules for Cases not Provided for in This Act. In any case not provided for in this act, the rules of law and equity including the law merchant, shall govern.

PART II.

NATURE OF A PARTNERSHIP

Section 6. Partnership Defined. (1) A partnership is an association of two or more persons to carry on as co-owners a business for profit.

(2) But any association formed under any other statute of this state, or any statute adopted by authority, other than the authority of this state, is not a partnership under this act, unless such association would have been a partnership in this state prior to the adoption of this act; but this act shall apply to limited or special partnerships except in so far as the statutes relating to such partnerships are inconsistent herewith.

Section 7. Rules for Determining the Existence of a Partnership. In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by Section 16 persons who are not partners as to each other are not partners as to third persons.

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payment:

- (a) As a debt by installments or otherwise,
- (b) As wages of an employee or rent to a landlord,
- (c) As an annuity to a widow or representative of a deceased partner,
- (d) As interest on a loan, though the amount of payment vary with the profits of the business.
- (e) As the consideration for the sale of a good-will of a business or other property by installments or otherwise.

Section 8: Partnership Property. (1) All property originally brought into the partnership stock or subsequently acquired by purchase or other-

wise, on account of the partnership, is partnership property.

(2) Unless the contrary intention appears, property acquired with partnership funds is partnership property.

(3) Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.

(4) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears.

PART III.

RELATIONS OF PARTNERS TO PERSONS DEALING WITH THE PARTNERSHIP

Section 9. Partner Agent of Partnership as to Partnership Business.

(1) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority.

(2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.

(3) Unless authorized by the other partners or unless they have abandoned the business, one or more but, less than all the partners have no authority to:

- (a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership,
- (b) Dispose of the good-will of the business,
- (c) Do any other act which would make it impossible to carry on the ordinary business of a partnership,
- (d) Confess a judgment,
- (e) Submit a partnership claim or liability to arbitration or reference.

(4) No act of a partner in contravention of a restriction on authority shall bind the partnership to persons having knowledge of the restriction.

Section 10. Conveyance of Real Property of the Partnership. (1) Where title to real property is in the partnership name, any partner may convey title to such property by a conveyance executed in the partnership name; but the partnership may recover such property unless the partner's act binds the partnership under the provisions of paragraph one (1) of section nine (9) or unless such property has been conveyed by the grantee or a person claiming through such grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded his authority.

(2) Where title to real property is in the name of the partnership, a conveyance executed by a partner, in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of paragraph one (1) of section nine (9).

(3) Where title to real property is in the name of one or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose name the title stands may convey title to such property, but the partnership may recover such property if the

partners' act does not bind the partnership under the provisions of paragraph one (1) of section nine (9), unless the purchaser or his assignee, is a holder for value, without knowledge.

(4) Where the title to real property is in the name of one or more or all the partners, or in a third person in trust for the partnership, a conveyance executed by a partner in the partnership name, or in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of paragraph one (1) of section nine (9).

(5) Where the title to real property is in the names of all the partners a conveyance executed by all the partners passes all their rights to such property.

Section 11. Partnership Bound by Admission of Partner. An admission or representation made by any partner concerning partnership affairs within the scope of his authority as conferred by this act is evidence against the partnership.

Section 12. Partnership Charged with Knowledge of or Notice to Partner. Notice to any partner of any matter relating to partnership affairs, and the knowledge of the partner acting in the particular matter, acquired while a partner or then present to his mind, and the knowledge of any other partner who reasonably could and should have communicated it to the acting partner, operate as notice to or knowledge of the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

Section 13. Partnership Bound by Partner's Wrongful Act. Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership or with the authority of his co-partners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor, to the same extent as the partner so acting or omitting to act.

Section 14. Partnership Bound by Partner's Breach of Trust. The partnership is bound to make good the loss:

- (a) Where one partner acting within the scope of his apparent authority receives money or property of a third person and misapplies it; and
- (b) Where the partnership in the course of its business receives money or property of a third person and the money or property so received is misapplied by any partner while it is in the custody of the partnership.

Section 15. Nature of Partner's Liability. All partners are liable

- (a) Jointly and severally for everything chargeable to the partnership under sections 13 and 14,
- (b) Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

Section 16. Partner by Estoppel. (1) When a person, by words spoken or written or by conduct, represents himself, or consents to another representing him to anyone, as a partner in an existing partnership or with one or more persons not actual partners, he is liable to any such person to whom such representation has been made, who has, on the faith of such representation, given credit to the actual or apparent partnership, and if he has made such representation or consented to its being made in a public manner, he is liable to such person, whether the representation

has or has not been made or communicated to such person so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made.

(a) When a partnership liability results, he is liable as though he were an actual member of the partnership.

(b) When no partnership liability results, he is liable jointly with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately.

(2) When a person has been thus represented to be a partner in an existing partnership, or with one or more persons not actual partners, he is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though he were a partner in fact, with respect to persons who rely upon the representation. Where all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation.

Section 17. Liability of Incoming Partner. A person admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before his admission as though he had been a partner when such obligations were incurred, except that this liability shall be satisfied only out of partnership property.

PART IV.

RELATIONS OF PARTNERS TO ONE ANOTHER

Section 18. Rules Determining Rights and Duties of Partners. The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(a) Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and must contribute towards the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

(b) The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of its business, or for the preservation of its business or property.

(c) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.

(d) A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

(e) All partners have equal rights in the management and conduct of the partnership business.

(f) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs.

(g) No person can become a member of a partnership without the consent of all the partners.

(h) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners.

Section 19. Partnership Books. The partnership books shall be kept subject to any agreement between the partners, at the principal place of business of the partnership, and every partner shall at all times have access to and may inspect and copy any of them.

Section 20. Duty of Partners to Render Information. Partners shall render on demand true and full information of all things affecting the partnership to any partner or the legal representative of any deceased partner or partner under legal disability.

Section 21. Partner Accountable as a Fiduciary. (1) Every partner must account to the partnership for any benefit, and hold as a trustee for it any profits derived by him without the consent of the other partners from any transaction connected with the formation, conduct, or liquidation of the partnership or from any use by him of its property.

(2) This section applies also to the representatives of a deceased partner engaged in the liquidation of the affairs of the partnership as the personal representatives of the last surviving partner.

Section 22. Right to an Account. Any partner shall have the right to a formal account as to partnership affairs:

- (a) If he is wrongfully excluded from the partnership business or possession of its property by his co-partners,
- (b) If the right exists under the terms of any agreement,
- (c) As provided by section 21,
- (d) Whenever other circumstances render it just and reasonable.

Section 23. Continuation of Partnership Beyond Fixed Term. (1) When a partnership for a fixed term or particular undertaking is continued after the termination of such term or particular undertaking without any express agreement, the rights and duties of the partners remain the same as they were at such termination, so far as is consistent with a partnership at will.

(2) A continuation of the business by the partners of such of them as habitually acted therein during the term, without any settlement of liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership.

PART V.

PROPERTY RIGHTS OF A PARTNER

Section 24. Extent of Property Rights of a Partner. The property rights of a partner are (1) his rights in specific partnership property, (2) his interest in the partnership, and (3) his right to participate in the management.

Section 25. Nature of a Partner's Right in Specific Partnership Property. (1) A partner is co-owner with his partners of specific partnership property holding as a tenant in partnership. (2) The incidents of his tenancy are such that:

(a) A partner, subject to the provisions of this act and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose, without the consent of his partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partner-

ship. When partnership property is attached for a partnership debt the partners, or any of them, or the representative of a deceased partner, cannot claim any rights under the homestead or exemption laws.

(d) On the death of a partner his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to widows, heirs, or next of kin.

Section 26. Nature of Partner's Interest in the Partnership. A partner's interest in the partnership his share of the profits and surplus, and the same is personal property.

Section 27. Assignment of Partner's Interest. (1) A conveyance by a partner of his interest in the partnership does not of itself dissolve the partnership, nor, as against the other partners in the absence of agreement, entitle the assignee, during the continuance of the partnership to interfere in the management or administration of the partnership business or affairs, or to require any information or account of partnership transactions or to inspect the partnership books; but it merely entitles the assignee to receive in accordance with his contract the profits to which the assigning partner would otherwise be entitled.

(2) In case of a dissolution of the partnership, the assignee is entitled to receive his assignor's interest and may require an account from the date only of the last account agreed to by all the partners.

Section 28. Partner's Interest Subject to Charging Order. (1) On due application to a competent court by any judgment creditor of a partner, the court which entered the judgment, order, or decree, or any other court, may change the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of his share of the profits, and of any other money due or to fall due to him in respect of the partnership, and make all other orders, directions, accounts and inquiries which the debtor partner might have made, or which the circumstances of the case may require.

(2) The interest charged may be redeemed at any time before foreclosure, or in case of a sale being directed by the court may be purchased without thereby causing a dissolution:

(a) With separate property, by any one or more of the partners, or

(b) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

(3) Nothing in this act shall be held to deprive a partner of his right, if any, under the exemption laws, as regards his interest in the partnership.

PART VI.

DISSOLUTION AND WINDING UP

Section 29. Dissolution Defined. The dissolution of a partnership is the change in the relation of the partners caused by any partner ceasing to be associated in the carrying on as distinguished from the winding up of the business.

Section 30. Partnership Not Terminated by Dissolution. On dissolution the partnership is not terminated, but continues until the winding up of partnership affairs is completed.

Section 31. Causes of Dissolution. Dissolution is caused:

- (1) Without violation of the agreement between the partners,
- (a) By the termination of the definite term or particular undertaking specified in the agreement.
- (b) By the express will of any partner when no definite term or particular undertaking is specified,
- (c) By the express will of all the partners who have not assigned their interests or suffered them to be charged for their separate debts, either before or after the termination of any specified term or particular undertaking.
- (d) By the expulsion of any partner from the business bona fide in accordance with such a power conferred by the agreement between the partners;
- (2) In contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this section, by the express will of any partner at any time;
- (3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;
- (4) By the death of any partner;
- (5) By the bankruptcy of any partner or the partnership;
- (6) By decree of court under section 32.

Section 32. Dissolution by Decree of Court. (1) On application by or for a partner the court shall decree a dissolution whenever:

- (a) A partner has been declared a lunatic in any judicial proceeding or is shown to be of unsound mind,
- (b) A partner becomes in any other way incapable of performing his part of the partnership contract,
- (c) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business.
- (d) A partner wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him,
- (e) The business of the partnership can only be carried on at a loss,
- (f) Other circumstances render a dissolution equitable.
- (2) On the application of the purchaser of a partner's interest under sections 27 or 28;
- (a) After the termination of the specified term or particular undertaking.
- (b) At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.

Section 33. General Effect of Dissolution on Authority of Partner. Except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished, dissolution terminates all authority of any partner to act for the partnership.

- (1) With respect to the partners,
- (a) When the dissolution is not by the act, bankruptcy or death of a partner; or
- (b) When the dissolution is by such act, bankruptcy or death of a partner, in cases where section 34 so requires.
- (2) With respect to persons not partners, as declared in section 35.

Section 34. Right of Partner to Contribute From Co-partners After Dissolution. Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his co-partners for his share

of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless

- (a) The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution; or
- (b) The dissolution being by death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy.

Section 35. Power of Partner to Bind Partnership to Third Persons After Dissolution. (1) After dissolution a partner can bind the partnership except as provided in Paragraph (3)

- (a) By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution;
- (b) By any transaction which would bind the partnership if dissolution had not taken place, provided the other party to the transaction
- (I) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of the dissolution; or
- (II) Though he had not so extended credit, had nevertheless known of the partnership prior to dissolution, and, having no knowledge or notice of dissolution, the fact of dissolution had not been advertised in a newspaper of general circulation in the place (or in each place if more than one) at which the partnership business was regularly carried on.

(2) The liability of a partner under paragraph (1b) shall be satisfied out of partnership assets alone when such partner had been prior to dissolution.

(a) Unknown as a partner to the person with whom the contract is made; and

- (b) So far unknown and inactive in partnership affairs that the business reputation of the partnership could not be said to have been in any degree due to his connection with it.

(3) The partnership is in no case bound by any act of a partner after dissolution

- (a) Where the partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriate for winding up partnership affairs, or
- (b) Where the partner has become bankrupt; or
- (c) Where the partner has no authority to wind up partnership affairs; except by a transaction with one who
- (I) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of his want of authority; or
- (II) Had not extended credit to the partnership prior to dissolution, and, having no knowledge or notice of his want of authority, the fact of his want of authority has not been advertised in the manner provided for advertising the fact of dissolution in paragraph (1bII).

(4) Nothing in this section shall affect the liability under section 16 of any person who after dissolution represents himself or consents to another representing him as a partner in a partnership engaged in carrying on business.

Section 36. Effect of Dissolution on Partner's Existing Liability.

(1) The dissolution of the partnership does not of itself discharge the existing liability of any partner.

(2) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor and the person or partnership continuing the

business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such obligations.

(4) The individual property of a deceased partner shall be liable for all obligations of the partnership incurred while he was a partner but subject to the prior payment of his separate debts.

Section 37. Right to Wind Up. Unless otherwise agreed the partners who have not wrongfully dissolved the partnership or the legal representative of the last surviving partner, not bankrupt, has the right to wind up the partnership affairs; provided, however, that any partner, his legal representative or his assignee, upon cause shown, may obtain winding up by the court.

Section 38. Rights of Partners to Application of Partnership Property. (1) When dissolution is caused in any way, except in contravention of the partnership agreement, each partner as against his co-partners and all persons claiming through them in respect of their interests in the partnership, unless otherwise agreed, may have the partnership property applied to discharge its liabilities, and the surplus applied to pay in cash the net amount owing to the respective partners. But if dissolution is caused by expulsion of a partner, bona fide under the partnership agreement and if the expelled partner is discharged from all partnership liabilities, either by payment or agreement under section 36 (2), he shall receive in cash only the net amount due him from the partnership.

(2) When dissolution is caused in contravention of the partnership agreement the rights of the partners shall be as follows:

(a) Each partner who has not caused dissolution wrongfully shall have,

(I) All the rights specified in paragraph (1) of this section, and

(II) The right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

(b) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so, during the agreed term for the partnership and for that purpose may possess the partnership property, provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his interest in the partnership at the dissolution less any damages recoverable under clause (2aII) of this section and in like manner indemnify him against all present or future partnership liabilities.

(c) A partner who has caused the dissolution wrongfully shall have:

(I) If the business is not continued under the provisions of paragraph (2b) all the rights of a partner under paragraph (I), subject to clause (2aII), of this section, (II). If the business is continued under paragraph (2b) of this section the right as against his co-partners and all claiming through them in respect of their interests in the partnership, to have the value of his interest in the partnership, less any damages caused to his co-partners by the dissolution, ascertained and paid to him in cash, or the payment secured by bond approved by the court, and to be released

from all existing liabilities of the partnership; but in ascertaining the value of the partner's interest the value of the good-will of the business shall not be considered.

Section 39. Rights Where Partnership Is Dissolved for Fraud or Misrepresentation. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled,

- (a) To a lien on, or right of retention of, the surplus of the partnership property after satisfying the partnership liabilities to third persons for any sum of money paid by him for the purchase of an interest in the partnership and for any capital or advances contributed by him; and
- (b) To stand, after all liabilities to third persons have been satisfied, in the place of the creditors of the partnership for any payments made by him in respect of the partnership liabilities; and
- (c) To be indemnified by the person guilty of the fraud or making the representation against all debts and liabilities of the partnership.

Section 40. Rules for Distribution. In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

- (a) The assets of the partnership are;
- (I) The partnership property,
- (II) The contributions of the partners necessary for the payment of all the liabilities specified in clause (b) of this paragraph.
- (b) The liabilities of the partnership shall rank in order of payment, as follows:
 - (I) Those owing to creditors other than partners,
 - (II) Those owing to partners other than for capital and profits,
 - (III) Those owing to partners in respect of capital,
 - (IV) Those owing to partners in respect of profits.
- (c) The assets shall be applied in the order of their declaration in clause (a) of this paragraph to the satisfaction of the liabilities.
- (d) The partners shall contribute, as provided by Section 18 (a) the amount necessary to satisfy the liabilities; but if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.
- (e) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in clause (d) of this paragraph.
- (f) Any partner or his legal representative shall have the right to enforce the contributions specified in clause (d) of this paragraph, to the extent of the amount which he has paid in excess of his share of the liability.
- (g) The individual property of a deceased partner shall be liable for the contributions specified in clause (d) of this paragraph.
- (h) When partnership property and the individual properties of the partners are in possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.
- (i) Where a partner has become bankrupt or his estate is insolvent the claims against his separate property shall rank in the following order:

- I. Those owing to separate creditors,
- II. Those owing to partnership creditors,
- III. Those owing to partners by way of contribution.

Section 41. Liability of Persons Continuing the Business In Certain Cases. (1) When any new partner is admitted into an existing partnership, or when any partner retires and assigns (or the representative of the deceased partner assigns) his rights in partnership property to two or more of the partners, or to one or more of the partners, or to one or more of the partners and one or more third persons, if the business is continued without liquidation of the partnership affairs, creditors of the first or dissolved partnership are also creditors of the partnership so continuing the business.

(2) When all but one partner retire and assign (or the representative of a deceased partner assigns) their rights in partnership property to the remaining partner, who continues the business without liquidation of partnership affairs, either alone or with others, creditors of the dissolved partnership are also creditors of the person or partnership so continuing the business.

(3) When any partner retires or dies and the business of the dissolved partnership is continued as set forth in paragraphs (1) and (2) of this section, with the consent of the retired partners or the representative of the deceased partner, but without any assignment of his right in partnership property, rights of creditors of the dissolved partnership and of the creditors of the person or partnership continuing the business shall be as if such assignment had been made.

(4) When all the partners or their representatives assign their rights in partnership property to one or more third persons who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(5) When any partner wrongfully causes a dissolution and the remaining partners continue the business under the provisions of section 38 (2b), either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(6) When a partner is expelled and the remaining partners continue the business either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(7) The liability of a third person becoming a partner in the partnership continuing the business, under this section, to the creditors of the dissolved partnership shall be satisfied out of partnership property only.

(8) When the business of a partnership after dissolution is continued under any conditions set forth in this section, the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representative of the deceased partner have a prior right to any claim of the retired partner or the representative of the deceased partner against the person or partnership continuing the business, on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for his right in partnership property.

(9) Nothing in this section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud.

(10) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof,

shall not of itself make the individual property of the deceased partner liable for any debts contracted by such person or partnership.

Section 42. Rights of Retiring or Estate of Deceased Partner When the Business Is Continued. When any partner retires or dies, and the business is continued under any of the conditions set forth in sections 41 (1, 2, 3, 5, 6), or section 38 (2b), without any settlement of accounts as between him or his estate and the person or partnership continuing the business, unless otherwise agreed, he or his legal representative as against such persons or partnership may have the value of his interest at the date of dissolution ascertained, and shall receive as an ordinary creditor an amount equal to the value of his interest in the dissolved partnership with interest, or, at his option or at the option of his legal representative, in lieu of interest, the profits attributable to the use of his right in the property of the dissolved partnership; provided that the creditors of the dissolved partnership as against the separate creditors, or the representative of the retired or deceased partner, shall have priority on any claim arising under this section, as provided by section 41 (8) of this act.

Section 43. Accrual of Actions. The right to an account of his interest shall accrue to any partner, or his legal representative, as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the date of dissolution, in the absence of any agreement to the contrary.

PART VII.

REPEALING PROVISIONS

Section 44. Legislation Repealed. All acts or parts of acts inconsistent with this act are hereby repealed.

Approved March 12, 1923.

Unorganized Counties

CHAPTER 297.

(S. B. 105.)

DEPOSITARIES OF FUNDS

AN ACT Entitled, An Act to Amend Section 6888 of the South Dakota Revised Code of 1919, Relating to Depositaries for Funds Belonging to Unorganized Counties, and Administered by Organized Counties.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6888 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 6888. Deposits, Interest, How Regulated. The county treasurer shall deposit and at all times keep on deposit in state, national or private banks within the county, having approved and responsible financial standing, the money in his hands as county treasurer. Provided that Section 3816 shall not prevent the designation as depositaries or the keeping of county funds in any bank in which a county official may be a stockholder or officer. Any such bank may apply for the privilege of

keeping such funds upon the conditions herein prescribed, and shall state in the application the rate of interest it will pay on such deposits and the amount of money desired, provided that no bank at any time shall have on deposit county funds in excess of fifty per cent of the capital and surplus of such bank. Provided, that if such banks fail to make application on or before the first day of April of each year, or if the rate of interest offered in all applications received is too low, such application shall be rejected and it shall be the duty of the county treasurer to advertise for applications for the handling of such funds by banks outside as well as within the county. The county treasurer shall advertise for such applications in the official newspapers of the county, and not exceeding five other legal newspapers in the state, and the banks which agree to pay the highest rates of interest for such deposits shall be accepted and designated as depositories. All moneys shall be deposited in the name of the treasurer as county treasurer, and for all such deposits he shall take a receipt in duplicate, one to be retained in his office and the other filed forthwith with the county auditor, who shall enter the amount in a book kept for that purpose, and all checks drawn against such deposits shall be credited on the same book by the auditor before delivery to the treasurer, which book shall be kept in such manner as to show at all times the amount of money deposited with such bank or banks. All such deposits shall be subject to payment when demanded by the county treasurer on his check, countersigned by the county auditor, and all banks receiving and holding such deposits shall be required to pay to the county, for the privilege of keeping such deposits, interest amounting to not less than two per cent and not more than four per cent per annum upon the amount so deposited as hereinafter provided, and subject always to such regulations as are imposed by law, and it shall be the duty of the board of county commissioners to approve such applications; provided, that such applicants as are not protected by the state bank guaranty fund shall have furnished a good and sufficient bond to the county as now required by law. Provided, that if the board of county commissioners at any time after having made such designation, for good and sufficient cause deems the security given insufficient, it shall require a new bond, or it may revoke its designation of a depository and again designate another depository or depositories as above provided. The amount to be paid by any and all banks under and by the provisions of this section for the privilege of keeping public funds on deposit, shall be computed on the daily balances of the public money kept on deposit therewith and shall be paid to the county on the first day of each month for the preceding month, and the amounts paid to the county for the privilege of keeping the same on deposit as aforesaid shall be credited by the auditor and treasurer to the account of the county general fund. Provided, further, that all provisions herein made shall apply with equal force and in like manner to all funds of unorganized counties which are now administered and controlled by organized counties, and it shall be the duty of the officers of such organized county so administering the funds of an unorganized county to in like manner advertise for bids, designate depositories, require depository bond, collect interest and credit the same to such unorganized county, and generally do all other things required to be done in the case of fund belonging to an organized county, as herein designated, except that the bank or banks of an unorganized county shall first be given the privilege of making an application for the keeping of the funds of the unorganized county, and if no application is made on or before April 1st of each year, or if the rate of interest offered is too low, the application shall be re-

jected and the county treasurer shall advertise for application by banks outside, as well as banks within, the unorganized county as hereinbefore provided. Any county officer neglecting or refusing to comply with the provisions of this section shall be subject to removal from office.

Approved March 8, 1923.

CHAPTER 298.

(H. B. 317.)

RELATING TO HIGHWAY BOARD

AN ACT Entitled, An Act to Amend Section 8606 of the South Dakota Revised Code of 1919 Relating to Powers and Duties of Highway Boards of Unorganized Counties and Publication of Proceedings of Such Boards.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. That Section 8606 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 8606. **Powers and Duties.** Such highway board when acting in and for such unorganized county shall have all the powers and be charged with all the duties in regard to the construction, repair and improvement of highways and bridges, which are conferred and imposed upon county commissioners of organized counties. The laws of this state relating to the construction, repair and improvement of highways and bridges, including the provisions with reference to state and federal aid therefor, in organized counties shall be applicable to unorganized counties. The county auditor of the organized county to which any unorganized county is attached shall perform for such unorganized county all duties required by such laws to be performed by the county auditor, without additional compensation, and he shall cause a full report of all proceedings of said highway board to be published as soon as practical after each meeting thereof in the official newspapers, the cost thereof to be paid out of the highway fund provided for in this article.

Approved March 12, 1923.

CHAPTER 299.

(H. B. 315)

RELATING TO HIGHWAY BOARD CONTRACTS

AN ACT Entitled, An Act Requiring Highway Boards of Unorganized Counties to Advertise for Bids on Road or Bridge Contracts Amounting to More Than One Hundred Dollars.

Be It Enacted by the Legislature of the State of South Dakota :

Section 1. No highway board for an unorganized county shall make any contract for road or bridge work, the amount of which is over One Hundred Dollars, until it shall have first advertised for bids on such

contract by publication for two weeks in a newspaper published in such unorganized county, or, if there be no newspaper, by posting in five of the most public places in said county for at least ten days, in addition to such advertisement, if any, as may be required of county commissioners in such case.

Approved March 12th., 1923.

CHAPTER 300.

(H. B.) 318)

RELATING TO HIGHWAY BOARD AND SCHOOL BOARD

AN ACT Entitled, An Act to Provide for the Nomination and Election of Members of the Highway Board and of Members of the District School Board in Unorganized Counties, Fixing Terms of Office of Members of Such Boards, Providing for the Filling of Vacancies and Amending Sections 8605 and 7520 of the South Dakota Revised Code of 1919.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. All candidates for the offices of member of the district school board and of member of the highway board in unorganized counties shall be nominated and elected at primary and general elections in the manner herein provided.

Section 2. The names of all candidates for any of the offices named in Section 1 shall be presented for nomination by individual nomination petitions. Such petitions shall be filed in the office of the auditor of the county to which such unorganized county is attached for judicial purposes at least thirty days and not more than sixty days prior to the primary election and shall be signed by not less than ten per cent nor more than twenty per cent of the total number of electors of such unorganized county casting votes at the preceding general election. A declaration of the candidate to the effect that he will qualify if nominated and elected shall be attached to the petition.

Section 3. If the number of petitions filed does not exceed the number of members of a board to be elected for an equal number of years, the names of the persons named as candidates therein need not be printed on the primary ballot and such person or persons shall be the nominee or nominees for such offices. Otherwise the names of all candidates named in such petitions shall be printed on a separate primary ballot prepared and furnished by the county auditor, which shall be substantially as follows:

PRIMARY BALLOT UNORGANIZED COUNTY OF.....

The voter may vote for one of the following candidates for each board in each column by placing an X in circle before candidate's name.

FOR MEMBER OF HIGHWAY BOARD

() For 2 years (if any)	() For 4 years (if any)	() For 6 years
() John Doe	() John Smith	() Abe Smith
() Richard Roe	() James Black	() Jake Jones
() Roger Bacon	() Ike Barnes	() Joe Ray

FOR MEMBER OF DISTRICT SCHOOL BOARD

- | | | |
|--------------------------|--------------------------|-----------------|
| () For 2 years (if any) | () For 4 years (if any) | () For 6 years |
| () John Smith | () John Jones | () Abe Smith |
| () Richard Roe | () John Doe | () Jake Jones |
| () Roger Bacon | () Ike Barnes | () Joe Ray |

Section 4. The two candidates receiving the highest number of votes for each office for the same number of years shall be the nominees for each office to be voted upon at the general election and their names shall be printed as such on a separate ballot prepared and furnished in the manner and form, so far as is applicable, prescribed in Section 3.

Section 5. The laws of this state relating to nomination and election of officers at primary and general elections shall apply to nominations and elections under the provisions hereof, except wherein they conflict with the provisions of this Act.

Section 6. At the next general election there shall be elected in each unorganized county one member of the district school board for two years, one member for four years and one member for six years; one member of the highway board for two years, one member for four years and one member for six years. Thereafter one member of each of said boards shall be elected for six years at each general election. Candidates shall qualify within sixty days after election and serve until their successors are elected and qualified.

Section 7. All vacancies in the district school board or highway board shall be filled by appointment by the Governor until the next general election following such vacancy and appointment; and members of such boards who have been or may hereafter be appointed by the Governor shall continue to serve as such officer until the election and qualification of their successors in accordance with the provisions of this Act.

Section 8. Section 8605 of the South Dakota Revised Code of 1919 is hereby amended to read as follows:

Section 8605. Highway Board. Whenever it shall be made to appear to the satisfaction of the Governor that there is an actual bona fide demand for the construction, repair or improvement of the highway or bridges of any unorganized county, he shall be authorized, at his discretion, to appoint a highway board, such board to consist of three members, all of whom shall be residents and free holders of such unorganized county, and they shall be appointed to serve until their successors shall have been elected at the next general election and shall have qualified. Each member shall before entering upon the duties of his office qualify according to the provisions governing the qualifications of county commissioners of organized counties. Such appointment, bond and oath of office shall be filed in the office of the county auditor of the organized county to which such unorganized county is attached. The members shall choose one of their number to act as chairman. No member of such board shall receive any compensation other than actual and necessary traveling expenses incurred in the discharge of his official duties, which expenses shall be paid from the highway fund provided for in this article.

Section 9. Section 7520. District Board. The management of the affairs of such school district shall be under the supervision and control of a district school board to be composed of three residents of the county to be elected at the next general election, one for two years, one for four years and one for six years and at each general election thereafter one for a period of six years. Each member of such board

before entering upon the duties of his office, shall furnish a good and sufficient bond with the same conditions and in the sum now required by law of members of district school boards in organized counties, which bond shall be approved by and filed in the office of the State Superintendent of Public Instruction.

Section 10. The expense of printing the ballots herein provided for shall be paid in equal amounts out of the highway and school funds of such unorganized county.

Approved March 9, 1923.

CHAPTER 301.

(H. B. 314.)

PUBLICATION OF LEGAL NOTICES

AN ACT Entitled, An Act Permitting the Publication of Legal Notices in Legal Newspapers Within Unorganized Counties.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Any notice required to be published under the provisions of any statute of the State of South Dakota, or by the order of any court, pertaining to matters of probate, the sale of real or personal property situated within unorganized counties, or any other legal notice relating to property situated within the unorganized counties of this state, may be published in a legal newspaper printed and published, in whole or in part, within such unorganized counties, at the option of the person ordering such publication.

Approved March 8, 1923.

CHAPTER 302.

(H. B. 55.)

RELATING TO THE ORGANIZATION OF COUNTIES

AN ACT Entitled, An Act to Amend Section 5731 of the South Dakota Revised Code of 1919, as Amended by Chapter 408 of the Session Laws of 1921, and Section 5732 of the Revised Code of 1919, Relating to Unorganized Counties, Providing the Manner of Voting Upon the Question of Organization, and of Electing Officers and Designating County Seat of Newly Organized County.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 5731 of the South Dakota Revised Code of 1919, as amended by Chapter 408 of the Session Laws of 1921, is hereby amended to read as follows:

Section 5731. **Petition for Organization.** Whenever voters of any unorganized county in this state shall equal four hundred or more, one-half of whom shall be freeholders or bona fide entrymen under the homestead laws of the United States, and three hundred of such voters shall desire to have such county organized, they may petition the Governor,

setting forth that the county has the requisite number of voters having the qualifications above described to form a county organization, and requesting that the question of organizing the county be submitted to the electors of the county as hereinafter provided. Such petition shall be signed by at least three hundred legal voters of such county, of whom at least two hundred and fifty must be freeholders or bona fide entrymen under the homestead laws of the United States; provided, also, that any person filing such petition with the Governor shall make affidavit that the signers of such petition had, at the time such petition was signed, the qualifications prescribed in this section.

Section 2. That Section 5732 of the South Dakota Revised Code of 1919 is hereby amended to read as follows:

Section 5732. Call for and Notice of Election. Whenever the voters of any unorganized county in this state shall petition the Governor, as provided in the preceding section, and the Governor shall be satisfied that the petition presented has the requisite number of signatures of legal voters having the qualifications enumerated in the preceding section, it shall be the duty of the Governor and he is authorized to call an election in such county and fix one or more places in such county as the polling places therein, and fix the time for holding such election; and the Governor shall thereupon issue a notice of election, which notice shall be substantially in the following form:

Notice is hereby given that on the.....day of....., 19...., at the following place (or places as the case may be)..... in the county of....., an election will be held for the purpose of submitting the following proposition: "Shall..... County be organized?", which election will be open at the hour of eight o'clock in the morning and will continue open until five o'clock in the afternoon of the same day.

Dated this.....day of....., 19....

.....
Governor.

The provisions of this article relating to the election of officers and the selection of a temporary county seat shall apply to the election held for voting upon the question as to whether or not the county shall be organized.

Section 3. If a majority of the votes cast at the election be favorable to an organization of such county, the Governor shall call an election in such county, and fix one or more places in such county as the polling places therein and fix the time for holding such election; and the Governor shall thereupon issued a notice of election, which notice shall be substantially in the following form:

Notice is hereby given that on the.....day of....., 19...., at the following place (or places as the case may be) in the County of.....an election will be held for the following officers of the County of.....in the State of South Dakota, (name the officers to be elected), and also for the temporary location of the county seat of such county, which election shall be open at the hour of eight o'clock in the morning and will continue until five o'clock in the afternoon of the same day.

Dated this.....day of....., 19....

.....
Governor.

Approved February 24, 1923.

CHAPTER 303.

(H. B. 69.)

RELATING TO TERMS OF COURT IN UNORGANIZED COUNTIES

AN ACT Entitled, An Act to Provide for Terms of Court in Unorganized Counties on Order of Circuit Judge to that Effect.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. The Circuit Judge, whenever he shall deem it necessary, shall have the power upon his own motion, by an order to that effect, to appoint and hold special terms of court in any unorganized county within his circuit at such place within said unorganized county as he shall in said order direct, and such special terms shall be regarded the same for all purposes as the regular terms prescribed by sections 5170 to 5181 inclusive of the South Dakota Revised Code of 1919; provided that the order for any such special term shall be filed in the office of the Clerk of Courts of the organized county to which said unorganized county is attached at least ten days before the opening of said term.

Section 2. The Clerk of Courts and the sheriff of the organized county to which any such unorganized county is attached shall have the same duties with reference to special terms of court in unorganized counties hereinbefore provided for, as they have for regular terms of court in their own county.

Section 3. The jurors for any such special terms of court in unorganized counties shall be drawn and summoned from the said unorganized county in the same manner and by the same officers as provided for in Sections 5283 to 5302 inclusive of the South Dakota Revised Code of 1919, the respective officers of the organized county to which said unorganized county is attached performing the duties therein prescribed.

Section 4. That section 5185 of the South Dakota Revised Code of 1919 be amended to read as follows:

Section 5185. **Terms Held at County Seat.** All terms of the circuit court within and for each county shall be held at the county seat thereof; provided, however, that in the event the circuit judge shall order a special term of court in any unorganized county that then such terms may be held at any place the circuit judge may in his order direct.

Section 5. All acts or parts of acts in conflict with this act are hereby repealed.

Approved February 13, 1923.

CHAPTER 304.

(H. B. 74.)

ATTACHING TODD COUNTY TO TRIPP COUNTY

AN ACT Entitled, An Act Amending Section 5846 of the South Dakota Revised Code of 1919, as Amended by Section 1 of Chapter 354, Session Laws of 1919, Relating to Unorganized Counties and Providing for the Transfer and Transcribing of the Books, Files and Records of the Unorganized County of Todd.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 5846 of the South Dakota Revised Code of 1919 as amended by Chapter 354 of the Session Laws of 1919 be and is hereby amended to read as follows:

Section 5846. **Counties Attached to Others, For What Purposes.** The unorganized county of Armstrong is attached to the county of Stanley; the unorganized county of Shannon is attached to the county of Fall River; the unorganized county of Washabaugh is attached to the county of Jackson; the unorganized county of Washington is attached to the county of Pennington; and the unorganized county of Todd is attached to the county of Tripp for judicial purposes and for all purposes connected with the filing of chattel and real estate mortgages and deeds or other conveyances, the foreclosure of all chattel and real estate mortgages, and the making of foreclosure sales thereunder or foreclosure sales of pledges.

Section 2. It shall be the duty of the County Commissioners of Tripp County to secure at once a full, true and complete transcript of all the records, books and files of the said unorganized county of Todd or of the county formerly known as Meyer as they may relate to or in any manner affect property rights or interests within such unorganized county, and when such records are transcribed and certified to as herein-after provided, they shall have the same force and effect as though originally filed and recorded in said Tripp county, and as the records of such Tripp county, and shall be received in all courts in evidence with the same force and effect as such original records; provided, that no transcript shall be made of any record affecting property located in the said unorganized county of Todd which shall have been prepared or recorded in a separate Todd or Meyer county book, or filed as a separate document by the officers of the county to which such unorganized county was attached, but the original records so prepared shall be delivered to the officers of the county of Tripp upon payment of the costs thereof as hereinafter provided. The provisions of this section shall apply to all books, records and files pertaining in any manner to the affairs of said unorganized county of Todd, including especially the assessor's books, listing blanks, schedule and tax lists.

Section 3. The County Commissioners of Tripp county shall let the work of transcribing such records, or any part thereof, by contract to the lowest and best competent and responsible bidder, and no bids shall be accepted or allowed therefor in excess of the sum of eight thousand dollars; and before the awarding of a contract to any bidder, all bids shall be published at least once in a newspaper of general circulation in Tripp county. Such records shall be transcribed and certified in the manner provided by Section 5782 of the South Dakota Revised Code of 1919, and under the requirements of Section 5783 thereof. It shall be the duty of the Commissioners of Tripp County, as soon as the work of

transcribing the records has been completed, to file a certificate to that effect with the Auditor of Tripp County, and until such certificate shall have been filed, any and all instruments and matters of record filed and recorded in Lyman County, pertaining to the property, rights and interests of the unorganized county of Todd, shall be deemed constructive notice to all purchasers or incumbrancers, the same as though such instruments or matters of record had been transcribed. Any matter pertaining to the transcribing of such records not herein specifically designated, shall be left to the discretion of the Board of Commissioners of Tripp County, subject to the right of appeal as provided by law. Should there not be sufficient funds belonging to said Todd County out of which to pay the expense incurred under the provisions of this Act, the County Commissioners of Tripp County shall levy a tax upon the assessable property of said Todd County, sufficient for that purpose. All claims of Lyman County or its officers against the unorganized county of Todd, or upon any of its funds, which have not been paid when this Act takes effect, shall be audited and allowed by the Board of Commissioners of Tripp County, and if there shall at that time be any funds belonging to said Todd County in the hands of Lyman County or any of its officers, the same shall be transferred at once to the proper officers of Tripp County.

Approved February 21, 1923.

CHAPTER 305.

(H. B. 280.)

RELATING TO TAX LEVY

AN ACT Entitled, An Act to Amend Section 6750 of the South Dakota Revised Code of 1919, Relating to the Levy of Taxes in Unorganized Counties.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 6750 of the Revised Code of 1919 is hereby amended to read as follows:

Section 6750. In Unorganized Counties. The board of county commissioners of each organized county to which any unorganized county is attached for state, judicial or other purposes, shall at the time and in the manner specified in the preceding section levy taxes on all taxable property assessable in such unorganized county, for the following purposes only:

1. For all costs of criminal prosecutions arising in such unorganized county.
2. For support of the insane such an amount as may be due the state or county for the support of the insane from such unorganized county, including expenses and costs in insanity cases arising in such unorganized county.
3. For all costs of general elections and assessment, extension and collection of taxes in such unorganized county.
4. For additional salary for the state's attorney and county judge of the organized county, in such amount as is or may hereafter be allowed by law.
5. For the support and relief of the poor.

Approved March 8, 1923.

Warehouses

CHAPTER 306.

(S. B. 137.)

RELATING TO FARM STORAGE WAREHOUSES

AN ACT Entitled, An Act Relating to Farm Storage Warehouses for Grain; Providing for the Storage, Measuring, Inspection, Grading and Insurance of Grain in Licensed Warehouses on the Farm; Providing for the Issuance of Negotiable Warehouse Receipts Secured by Grain Held in Licensed Farm Warehouses, and Defining the Duties of the Board of Railroad Commissioners Thereto.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Farm Warehouses, Storage. That any land owner tenant or manager of any lands in this state may store wheat or any other grain upon said land in a farm warehouse built and situated thereon and receive a warehouse receipt for same by complying with the provisions of this act.

Section 2. License, Application. Any person coming under the provisions of this act and desiring to avail himself of the provisions thereof shall file with the county Clerk of Courts of the county wherein said warehouse or warehouses are located an application for a license stating the exact location of the building or buildings, the material of which they are made, the name or names of the owners thereof, and if it shall appear from such application that said building or buildings are suitable structures in which to store wheat and other grains, the applicant shall receive from the county Clerk of Courts of the county a license designating such building or buildings as farm warehouses, which license shall be good for the period of one year thereafter, unless it shall be canceled by the county Clerk of Courts on the recommendation of a regularly appointed warehouse inspector after an examination as provided herein. Such application shall be accompanied by a license fee of twenty-five cents which shall be paid to the County Clerk of Courts. The application herein provided for shall be made under oath by the party or the agent of the party to whom the license is to be issued.

Section 3. Receipts, Duties of Inspector. Whoever holds a license as herein provided for shall be entitled to have issued on grain stored in the farm warehouse or warehouses a warehouse receipt or receipts to be issued by the county warehouse inspector; said receipt to be made upon a form prescribed and approved by the Attorney General of the State of South Dakota. Before issuing warehouse receipt or receipts, the party desiring to secure the same shall first file an application with the county warehouse inspector which application shall state the legal description of the land whereon the farm warehouse or warehouses are located; the amount of the several kinds of grain in bushels contained in such warehouse or warehouses according to his best estimate and the quality thereof; said application shall be accompanied by a fee of \$5.00 which sum shall be paid to and retained by the county farm warehouse inspector for his services in the performance of the duties of his office.

Section 4. Grain Inspection. Whenever such application is received the county farm warehouse inspector shall proceed to inspect the several kinds of grain contained in said warehouse or warehouses; shall cause the same to be graded and shall measure the several kinds of grain contained therein by cubic measure or by weight and when the grade shall have been fully determined, shall then issue the applicant and holder of the license a warehouse receipt or receipts in the form prescribed by the Attorney General, which shall be under the signature of the warehouse inspector and shall describe the legal description of the land and the location of said warehouse or warehouses, the number of bushels of the several kinds of grain contained therein and the grade and quality thereof. At the same time he shall place upon said warehouse or warehouses in a conspicuous place thereon, notice that the same has been inspected and state the amount and kind of grain therein and the date of expiration of the warehouse license.

Section 5. Warehouse Receipts Negotiable. All warehouse receipts issued as herein provided for are and the same hereby are made negotiable, transferable and assignable. Provided, when said warehouse receipt is issued to a tenant it shall be issued only for length of time of land lease, unless consent of landlord be given for extension of time. Such warehouse receipt forms shall be provided with spaces upon which shall be entered the name of the purchaser, assignee, or the person or firm making advances upon such grain, together with the amount of such advances, but when such warehouse receipts are negotiated or used as collateral for advances, the right or title of the holder to the grain described in the receipt shall not be greater than the amount of the advance together with accrued interest.

Section 6. Insurance at Full Value. Any person to whom warehouse receipts are issued shall keep the grain in such warehouse or warehouses owned or controlled by him insured against loss by fire, tornado and windstorm in some good and responsible insurance company to the extent of the full insurable value thereof and it shall be the duty of the county warehouse inspector at the time of making his examination to determine that this provision has been complied with.

Section 7. Inspector—Appointment. The Board of County Commissioners of each county is hereby authorized and upon petition of twenty farmers resident within the county, is directed to appoint one or more men as may be needed who shall be competent to serve as warehouse inspectors who shall be residents of the county, for the purpose of carrying out the provisions of this Act in such county and such warehouse inspectors shall receive from each applicant for the warehouse receipt or receipts a fee of \$5.00, only. Provided further, that before entering upon the discharge of his duties as such officer each inspector shall take an oath for the faithful and impartial performance of his duties and shall give bond to the county for the faithful discharge of his duties in a sum to be fixed by the Board of County Commissioners, not less than \$5,000.00; said bond to be approved by the Board of County Commissioners. The county warehouse inspector shall be required to file weekly with the county Clerk of Courts, a statement of the amount of grain inspected, giving names of parties to whom certificates were issued, stating kinds of grain and the amount of fees collected. The Board of Railroad Commissioners is hereby authorized and directed to prescribe and furnish such forms, rules and regulations as are consistent herewith for the purpose of carrying out the provision of this act.

Section 8. Violation—Penalty. Any person who shall make a false or fraudulent representation of his affidavit accompanying his application herein provided for, or who shall remove or permit to be removed from the farm warehouse or warehouses owned or controlled by him any grain therein contained while a farm warehouse receipt or receipts issued upon any such grain is negotiated, assigned or transferred, without first procuring a release and consent of the holder thereof, or who shall falsely swear as to the true ownership of any such grain or as to the existence of any chattel mortgage, lien or other encumbrance thereon, shall be deemed guilty of a felony and upon conviction thereof, shall be fined in any sum not less than \$100.00 nor more than \$500.00, or be imprisoned in the state penitentiary for a period not exceeding ten years, or both such fine and imprisonment at the discretion of the court.

Section 9. Receipts—Redemption. In case any one to whom a warehouse receipt is issued under the provisions of this act shall negotiate, assign, transfer or pledge the same to any person, individual, firm or corporation as security for any money, credit or other obligation and shall thereafter pay or tender the full amount due thereon to such assignee or holder for any such money or credit and shall fully fulfill and discharge any such other obligation for which such warehouse receipt was negotiated, assigned or transferred; it shall then be the duty of such assignee or holder of such receipt, to, immediately, upon request of the person to whom the same was issued, take said warehouse receipt together with the release of the lien thereon for which it was assigned, negotiated, or pledged and upon the failure of any such assignee or holder to surrender or release the same he shall be fined in any sum not exceeding \$100.00 and pay the costs of prosecution; and moreover be liable to the party to whom such receipt was issued for any and all damages by him sustained.

Section 10. It shall be the duty of the Board of Railroad Commissioners to prescribe regulations governing the manner of delivery of such stored grain, and the settlement of advances and other charges against it, to the end that the interests of all parties shall be fully protected.

Section 11. Nothing in this Act shall be construed to prevent farmers in any county or community from forming among themselves local credit unions whenever such unions are required in order to secure advances upon grain stored in farm warehouses as contemplated in this Act.

Section 12. All Act or parts of Act in conflict with the provisions of this Act be and the same are hereby repealed.

Approved February 20, 1923.

CHAPTER 307.

(S. B. 110.)

RELATING TO PUBLIC WAREHOUSES

AN ACT Entitled, An Act to Amend Sections 9748, 9749, 9750, 9751, 9752, 9753, 9754, 9755, 9762 and 9764 of the Revised Code of 1919, Relating to Public Warehouses.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 9748 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 9748. **Definition.** All elevators, flour mills purchasing grain for re-shipment and warehouses in this state wherein and whereat grain is purchased, received or handled, are hereby declared to be public warehouses.

Section 2. That Section 9749 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 9749. **Storing Grain Defined.** Whenever any lessee, owner or manager of any public warehouse, as in this article defined, located in this state shall receive grain into such warehouse and the same is not purchased and paid for by the lessee, owner or manager of such warehouse within two days from and after the time such grain has been weighed in and delivered to such warehouse, such grain shall constitute stored grain:

Section 3. That Section 9750 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 9750. **License.** It shall be unlawful for the owner, lessee or manager of any warehouse, as defined in this article, to transact any business as such until a license has been procured from the Board of Railroad Commissioners permitting such owner, lessee, or manager to transact the business of a public warehouseman, and has furnished a bond, which has been approved and filed by said Board, which license shall be issued by such board upon a written application which shall set forth the location, name and capacity of such warehouse, and individual name of each person interested as owner or principal in the management of the same; or if the warehouse be owned or managed by a corporation, the name of the president, secretary and treasurer of such corporation shall be stated, and such license shall give authority to conduct the business of a public warehouse, in accordance with the laws of this state. Every such license shall expire on the first day of August next following the issuance thereof and the Board of Railroad Commissioners may at any time for good cause shown, in its discretion, revoke any warehouseman's license, but such warehouseman shall have the right to appeal from such decision in the same manner as now provided by law for the review of final decision made by the Board of Railroad Commissioners in other cases.

Section 4. That Section 9751 of the South Dakota Revised Code be and the same is hereby amended to read as follows:

Section 9751. **Amount of Bond, Monthly Reports and Insurance.** The owner, lessee or manager of any public warehouse in this state, shall, before receiving a license to do and perform the business of warehouseman as defined in this article, file with the Board of Railroad Commis-

sioners a sufficient bond, running to the State of South Dakota, with good and sufficient sureties, conditioned for the faithful performance of his duties as a public warehouseman and full and unreserved compliance with all the laws of this state in relation thereto. Where the capacity of the warehouse does not exceed ten thousand bushels, the amount of the bond shall be three thousand dollars, and three thousand dollars for each additional ten thousand bushels capacity or fraction thereof. It is hereby required that the owner, lessee or manager of any public warehouse shall, on the first day of each month, make written reports, under oath, to the Board of Railroad Commissioners, upon forms to be prepared by such Board, which reports shall show the amount in bushels of each kind of grain that said warehouse has in storage at the date of such report, together with the price per bushel which such warehouse, upon such date, is offering for grain of like grade and kind. Said report shall also show the total value of the different kinds of grain held in storage, together with the name, address and location of such terminal warehouse; such information shall not be divulged by the Board. When the value of all of the grain held in storage by the warehouse making such report as shown thereon, shall exceed the amount of the bond already furnished by such warehouse, it shall be the duty of the owner, lessee or manager of such warehouse to forthwith furnish an additional bond, the amount of which additional bond, together with the amount of the bond originally furnished, shall equal in amount the value of all grain held by such warehouse in storage. A fee of one dollar shall be paid for each license by the person applying for the same.

Section 5. That Section 9752 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 9752. Unlawful Combinations. It shall be unlawful for any warehouseman, company or corporation engaged in the purchase and storage of grain, subject to the provisions of this article, to enter into any contract, agreement or combination with any other warehouse, company or corporation for pooling in the purchase and storage of grain by different and competing warehousemen, companies or corporations to divide between them the aggregate or net proceeds of margins or profits resulting from their business as warehousemen, or any portion thereof, and in case of such contract, agreement or combination for such pooling of their business as warehousemen, each day of its continuance shall be deemed a separate offense.

Section 6. That Section 9753 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 9753. Public Warehouse Receipts. It shall be the duty of every lessee, owner, or manager of any public warehouse operated in this state to receive for storage all grain offered for such purpose at such warehouse, except corn, which at the time of such offer may be in suitable condition for storage and which is tendered in the usual course of business, except when the capacity of such warehouse to receive such grain is exhausted and the owner, lessee or manager of such warehouse is prevented from shipping the grain to a terminal market by inability to obtain cars for shipment or some other valid cause rendering the receiving of such grain impossible and over which the owner, lessee or manager, has no control. Such warehouseman shall give a receipt for the grain so received, which shall bear a date corresponding with the receipt of the grain and shall state upon its face the quality and grade fixed upon the same, also the amount deducted for dirt and cleaning and shall state such so received for storage is insured against loss by fire and tornado. Pro-

vided, that when corn is voluntarily received for storage by any public warehouse, it shall be subject to all of the provisions hereof, except that the lessee, owner or manager of any public warehouse may, if so authorized by the Board of Railroad Commissioners, include in its storage receipt a provision requiring that when such storage receipt is issued for shelled corn, the owner shall either sell same or accept redelivery thereof not later than April 30th, following. All warehouse receipts issued for grain received shall be consecutively numbered, and no two receipts bearing the same number and series shall be issued during the same year. No warehouse receipt shall be issued except upon actual delivery of grain into such warehouse; Provided, that the owner of any such warehouse may include in its receipts, and make a part thereof, a provision that in the event of conditions arising that would prevent such warehouse from delivering the grain covered by such receipts at the warehouse, it shall have the right to make the delivery at the terminal market which the owner of such receipts may designate, where such warehouse ships its grain, provided the holder of such storage receipts shall pay the storage and handling charges established by the Board of Railroad Commissioners of this state, and the regular freight charges on the gross amount called for by such receipts. No such warehouseman shall insert into any warehouse receipt issued by him any language in anywise limiting or modifying his liability as imposed by the laws of this state.

Section 7. That Section 9754 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 9754. Duty of Warehouseman—Redelivery Upon Demand. It shall be the duty of every public warehouseman to retain possession of all grain received for storage either within the warehouse where such grain is delivered or in a bonded warehouse located at some terminal market. It shall be unlawful for the owner, lessee or manager of any public warehouse to sell grain held in storage. Where the storage capacity of such warehouse has been exhausted, the owner, lessee or manager of any public warehouse shall deposit grain received for storage in a public warehouse located at a convenient terminal market, providing that such terminal warehouse shall be bonded under federal law or the laws of the state where such terminal warehouse is located. Such grain shall remain in storage in said terminal warehouse until finally disposed of by the owner of the original storage ticket. On the return of any warehouse receipt properly endorsed and the tender of all proper charges upon the property represented by it, such grain or an equal quantity of the same grade and kind and quality, shall be immediately delivered to the holder of such receipt as rapidly as due diligence, care and prudence will justify. Nothing in this section shall be construed to mean the delivery of the identical grain specified in the receipt so presented, but an equal amount of the same grade, kind and quality; and if the grain so delivered has not been cleaned by warehouseman, there shall be added to the amount so delivered the amount originally deducted from the grain stored for dirt, which amount shall also be delivered; and when such grain is to be shipped from some terminal point where such elevator company or warehouseman is doing business, such elevator company or warehouseman shall guaranty both weight, grade and quality.

Section 8. That Section 9755 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 9755. Reports to Board. In addition to the monthly reports required by the provisions of this article to be made by every owner, lessee or manager of any public warehouse operated in this state, every

such owner, lessee or manager shall furnish to the Board of Railroad Commissioners, in writing, under oath, at such times as the Board of Railroad Commissioners may require, a statement of the condition and management of the business as such warehouseman. Such report shall show the total number of bushels of each kind and grade of grain purchased and in store, the number delivered out, and the number remaining in store at the date of the report. But no warehouseman shall be required to weigh the grain on hand more than once in each year; and the warehouseman shall, in addition to such statement be required to furnish to such board any other information regarding the business of his warehouse which such board may require.

Section 9. That Section 9762 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 9762. Schedule of Rates. The Board of Railroad Commissioners is hereby required to investigate, from time to time, the cost of receiving and holding grain in storage by the public warehouses of this state and shall fix just and reasonable rates for the storage of grain, which rates shall become effective on the first day of August following the date of publication by such Board after such investigation has been completed. The rates for storage, as thus determined by the Board of Railroad Commissioners shall be uniform throughout the state and each and every owner, lessee, or manager of any public warehouse operating in this state shall post a schedule of such rates in some conspicuous place in his warehouse and shall charge and collect from all persons alike storage charges according to the rates thus established. Storing grain free of charge is hereby prohibited.

Section 10. That Section 9764 of the South Dakota Revised Code of 1919 be and the same is hereby amended to read as follows:

Section 9764. Violation—Penalty. Any person, association, or corporation, or any representative thereof, who shall knowingly cheat or falsely weigh any grain or any other agricultural product, or who shall violate the provisions of any section of this article, or who shall do or perform any act or thing herein prohibited, or who shall fail to do and keep the requirements as herein provided, shall be deemed guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment in the county jail for a period not exceeding thirty days or both such fine and imprisonment.

Approved March 2, 1923.

Women

CHAPTER 308.

(H. B. 195)

RELATING TO LABOR OF WOMEN AND CHILDREN

AN ACT Entitled, An Act to Amend Sections 10014 and 10015 of the South Dakota Revised Code of 1919, Relating to the Length of Working Days for Women and Children.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Sections 10014 and 10015 of the Revised Code of 1919 be amended so as to read as follows:

Section 10014. Any employer, or other person having control who shall compel any woman, girl or child under the age of sixteen years to labor or be employed for more than ten hours in any day, or fifty-four hours in any week, except that for five days prior to Christmas he or she may be employed not to exceed twelve hours per day during that period shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed One Hundred Dollars, or by imprisonment not to exceed thirty days, or by both such fine and imprisonment; provided that this Section shall not apply to farm laborers, domestic servants, telegraph and telephone operators or to persons engaged in the care of live stock; and provided further that in cities having a population of three thousand or less according to the last State or Federal census, the standard day may by agreement be made not to exceed ten hours.

Section 2. That Section 10015 Revised Code of 1919 be amended to read as follows:

Section 10015. No child under fourteen years of age shall be employed at any time in any factory or workshop or about any mine, nor shall he or she be employed in any mercantile establishment except during the vacation of the public schools, or outside of school hours, but in no case after seven o'clock P. M. No child under sixteen years of age shall be employed at any time in any occupation dangerous to life, health or morals.

Approved March 12th., 1923.

CHAPTER 309.

(H. B. 203)

RELATING TO MINIMUM WAGES FOR GIRLS AND WOMEN

AN ACT Entitled, An Act to Provide for a Minimum Living Wage for Girls and Women in Certain Industries in the State of South Dakota, Prescribing the Duties of the Industrial Commissioner With Reference Thereto and Prohibiting the Employment of Girls and Women in Such Industries Contrary to Provisions of This Act.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. No woman or girl over the age of fourteen years shall be employed or permitted to work in any factory, work shop, mechanical or mercantile establishment, laundry, hotel, restaurant or packing-house, at less than a living wage of Twelve Dollars per week, or a proportionate amount for periods of employment of less than a week.

Section 2. Any woman or girl over the age of fourteen who receives less than the minimum wage herein provided in the occupations specified in the preceding section, shall be entitled to recover in a civil action the full amount as measured by the said minimum wage, together with costs, notwithstanding any agreement to work for a lesser wage.

Section 3. The provisions of this Act prohibiting the payment of less than a minimum wage, shall not apply to apprentices or to those learning the business or work in which they are engaged; providing, any employer desiring to employ any such persons, shall within ten days after employing said person, make known to the Industrial Commissioner the names of such persons, and obtain leave so to employ them.

Section 4. For any occupation for which a minimum wage is herein provided, the Industrial Commissioner of this State may issue to a woman mentally or physically deficient or disabled a special permit, authorizing her employment at a wage less than the general minimum herein provided, and the Industrial Commissioner shall fix the special wage for such person.

Section 5. Any employer who employs a woman or girl over the age of fourteen at less than the minimum wage as provided in this act, in any of the occupations herein mentioned, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished, for each offense, by a fine of not less than Ten Dollars nor more than One Hundred Dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

Approved March 7, 1923.

Workmen's Compensation Law

CHAPTER 310.

(H. B. 23)

RELATING TO COMPENSATION SCHEDULE

AN ACT Entitled, An Act to Amend Paragraph 5 of Section 9459, of the South Dakota Revised Code of 1919 as Amended by Chapter 363, of the Session Laws of 1919, Relating to Workmen's Compensation.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Paragraph 5 of Section 9459, of the South Dakota Revised Code of 1919, as amended by Chapter 363 of the Session Laws of 1919, relating to Workmen's Compensation, be amended to read as follows:

Section 2. (Paragraph 5) For injuries in the following schedule, the employe shall receive in addition to compensation during the period of temporary total incapacity for work resulting from such injury, in accordance with the provisions of Subdivisions (1) and (2) of said Section 9459 compensation for a further period, subject to the limitations as to time and amounts fixed in Subdivision (2) and (8) of said Section 9459, for the specific loss mentioned herein as follows; but shall not receive any compensation under any other provision of this Act.

(a) For the loss of a thumb, or the permanent and complete loss of its use, 55 per centum of the average weekly wage during fifty weeks;

(b) For the loss of a first finger, commonly called the index finger, or the permanent and complete loss of its use, 55 per centum of the average weekly wage during thirty-five weeks;

(c) For the loss of a second finger, or the permanent and complete loss of its use, 55 per centum of the average weekly wage during thirty weeks;

(d) For the loss of a third finger or the permanent and complete loss of its use, 55 per centum of the average weekly wage during twenty weeks;

(e) For the loss of a fourth finger, commonly called the little finger, or the permanent and complete loss of its use, 55 per centum of the average weekly wage during fifteen weeks;

(f) The loss of the first phalange of the thumb, or of any finger, shall be considered to be equal to the loss of one-half of such thumb or finger and compensation shall be one-half of the amounts above specified.

(g) The loss of more than one phalange shall be considered as the loss of the entire finger or thumb; provided, however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand;

(h) For the loss of a great toe, 55 per centum of the average weekly wage during thirty weeks;

(i) For the loss of one or more of the toes other than the great toe, 55 per centum of the average weekly wage during ten weeks, and for the additional loss of one or more toes other than the great toe, 55

per centum of the average weekly wage during an additional ten weeks;

(j) The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and compensation shall be one-half of the amount above specified;

(k) The loss of more than one phalange shall be considered as the loss of the entire toe;

(l) For the loss of a hand, or the permanent and complete loss of its use, 55 per cent of the average weekly wage during one hundred and fifty weeks;

(m) For the loss of an arm, or the permanent and complete loss of its use, 55 per centum of the average weekly wage during two hundred weeks;

(n) For the loss of a foot, or the permanent and complete loss of its use, 55 per centum of the average weekly wage during one hundred and twenty-five weeks;

(o) For the loss of a leg, or the permanent and complete loss of its use, 55 per centum of the average weekly wage during one hundred and sixty weeks.

(p) For the loss of the sight of an eye, 55 per centum of the average weekly wage during one hundred weeks;

(q) In all cases in the above schedule under this paragraph, where the loss of use is partial and permanent, the compensation shall bear such relation to the maximum amount for complete and permanent loss of use as defined in this paragraph as the partial loss of use bears to complete loss of use;

(r) The loss of both hands or both arms, or both feet, or both legs, or both eyes, or of any two thereof, or complete and permanent paralysis, or total and permanent loss of mental faculties, or any other injury which totally incapacitates the employe from working at any occupation which brings him an income, shall constitute total disability, to be compensated according to the compensation fixed by Subdivision 6 of this section; provided that these specific cases of total and permanent disability shall not be construed as excluding other cases of total or permanent disability.

Approved February 27, 1923.

CHAPTER 311.

(H. B. 205)

RELATING TO INSURANCE BY EMPLOYER

AN ACT Entitled, An Act to Amend Section 9439 of the Revised 1919 Code of the State of South Dakota, Relating to the Workmen's Compensation Act as it Applies to State and Municipal Corporations, and Relieving Them from Executing Compensation Bonds.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 9439 of the Revised 1919 Code of the State of South Dakota be and hereby is amended to read as follows:

Section 9439. Employer Required to Have Insurance. Every employer coming within the compensation provisions of this article shall insure the payment of compensation to his employees in the manner hereinafter provided, and while such insurance remains in force he, or those

conducting his business shall only be liable to any employee for personal injury or death by accident to the extent and in the manner hereinafter specified. Provided, however, that the State of South Dakota and any municipal corporations within the state, or any political divisions thereof, shall not be required to give or furnish any bond or undertaking in order to come within the provisions of this act, but nothing herein shall prohibit such political division of the State from protecting such risks by bonds if desired.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 12, 1923.

CHAPTER 312.

(H. B. 24)

LAW NOT APPLICABLE TO CERTAIN EMPLOYEES

AN ACT Entitled, An Act to Amend Section 9443 of the South Dakota Revised Code of 1919, as Amended by Chapter 364 of the Session Laws of 1919, Relating to Workmen's Compensation.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 9443 of the South Dakota Revised Code of 1919, as amended by Chapter 364, of the Session Laws of 1919, relating to Workmen's Compensation, be amended to read as follows:

Section 9443. Law Not Applicable to Certain Employees. This Article shall not apply to an employe whose employment is not in the usual course of trade, business, profession or occupation of the employer; to farm laborers; to domestic servants nor to the employers of such persons; provided that such employers may place themselves under the provisions of the Workmen's Compensation Law by voluntarily insuring their risks under such law, and their employees shall have the right of rejection of such provision if they so desire.

Approved February 27, 1923.

CHAPTER 313.

(H. B. 109)

RELATING TO OPERATION OF THRESHING MACHINES

AN ACT Entitled, An Act to Amend Section 2 of Chapter 362 of the Session Laws of 1919, as Amended by Section 2 of Chapter 423 of the Session Laws of 1921, Relating to Operation of Threshing Machines.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That Section 2 of Chapter 362 of the Session Laws of 1919, as amended by Section 2, Chapter 423 of the Session Laws of 1921, be amended to read as follows:

Section 2. The policy of insurance procured under the provisions of this Act may be written by any mutual or other insurance company organized under the laws of the state or authorized to do business within this state and the form of the policy shall be approved by the Commissioner of Insurance. Provided, however, that any organization or association organized and existing under the provisions of Section 9484 of Chapter 5 of the South Dakota Revised Code of 1919, may issue a certificate of membership, the form of said certificate to be approved by Industrial Commissioner, which certificate of membership shall have the same force and effect as the policy of insurance herein referred to. Before any person, firm, association or corporation shall do any threshing in this state, the policy of insurance or certificate of membership required under the provisions of this Act, shall be first filed in the office of the Clerk of the Circuit Court of the county in which the operator resides and said policies of insurance and certificates of membership shall be open for public inspection.

Approved February 27, 1923.

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